



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8712 OF 2025

Shaikh Bismillabi Babulal And Others
VERSUS
Mohammad Hanif Gulab Shaikh And Others

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Mr. S. D. Jayabhar, Advocate for the Petitioners
Mr. R. S. Kasar, Advocate for Respondent Nos. 1 to 6
Ms. R. R. Tandale, AGP for Respondents

CORAM : S. G. CHAPALGAONKAR, J
DATE : MAY 05, 2026

PC :

1. The Petitioners takes exception to order dated 07.03.2025 passed below Exhibit 38-A in RCS No. 563/2021 by learned Civil Judge, Senior Division, Ahmednagar whereby Petitioners' application to accept counter claim has been rejected.

2. Admittedly, counter claim was tendered after framing of issues.

3. Mr. Kasar, learned Advocate appearing for Respondents, brings attention of this Court to law laid down by Hon'ble Supreme Court in case of *Raju Manoj Shah alias Rajeshwari Rasiklal Sheth vs. Kiranbhai Shakrabhai Patel and Another, 2025 AIR SC 4284*, wherein it is held that filing of counter claim after framing issues cannot be permitted.

4. In light of aforesaid exposition of law, Mr. Jaybhar, learned Advocate appearing for Petitioners, seeks permission to withdraw Writ Petition with liberty in

favour of Petitioners to file separate suit in respect of claims sought to be raised by way of counter claim.

5. There is no impediment in granting such liberty in favour of Petitioners. In result, Writ Petition stands disposed of with liberty in favour of Petitioners to file separate suit in respect of claim sought to be raised by way of counter claim.

6. Needless to state that this Court has not expressed any opinion as to Petitioners' claim, applicable limitation or entitlement to raise claim.

(S. G. CHAPALGAONKAR, J.)

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