

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 14076/2022

Abdul Salam & Ors.

-----Petitioners

Versus

Mumtaz & Ors.

-----Respondents

For Petitioner(s) : Mr. Richin Surana.

For Respondent(s) :

HON'BLE MR. JUSTICE ARUN BHANSALI

Order

16/01/2023

This writ petition has been filed by the petitioners aggrieved against the order dated 01.09.2022 (Annex.9) passed by the Senior Civil Judge, Makrana, District Nagaur, whereby the counter claim filed by the petitioners along with the written statement, has been rejected by the trial court.

A perusal of provisions of Order VIII, Rule 6A(2) CPC indicates that a counter claim shall have the same effect as a cross suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter claim and under Sub-Rule (4), the counter claim shall be treated as a plaint and governed by the Rules applicable to plaints.

In view of the fact that the counter claim filed by the petitioners has been rejected, the petitioners are required to file an appeal against the said order in view of the above provisions by treating that their cross suit has been dismissed / plaint rejected.

Learned counsel for the petitioners prays for time to complete his instructions / make submissions on the said aspect.

List the petition on 23.01.2023.

(ARUN BHANSALI),J

157-Rmathur/-