



CIVIL

SC Reaffirms That Counterclaims Are Maintainable Only Against Plaintiffs, Not Co-Defendants

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Introduction

In a recent ruling clarifying the scope of counterclaims under civil procedure, the Supreme Court in *Sanjay Tiwari v. Yugal Kishore Prasad Sao & Ors.*^[1] held that a counterclaim cannot be directed against a co-defendant in a suit. The Court emphasized that under **Order VIII Rule 6A of the Code of Civil Procedure, 1908**, such claims are maintainable only against the plaintiff. The decision highlights judicial consistency in limiting counterclaims to disputes directly arising between the plaintiff and defendant, preventing procedural misuse in multi-party property disputes.

Table of contents

- [Introduction](#)
- [Background of the Case](#)
- [Supreme Court's Analysis](#)
- [Key Observations](#)
- [Judgment](#)
- [Conclusion](#)

Background of the Case

The dispute originated from a suit for specific performance filed by Sanjay Tiwari (the plaintiff), seeking enforcement of an alleged oral agreement for sale of 0.93 acres of land. According to the plaintiff, on December 2, 2002, the first defendant agreed to sell the land to him, and the entire sale consideration was paid the next day through three demand drafts. The plaintiff further claimed that he was put in possession of the property and had constructed a boundary wall around it.

Initially, the first defendant was the sole party in the suit. In his written statement, the defendant contended that two other individuals were in possession of a portion of the same land and, therefore, the suit suffered from non-joinder of necessary parties. Based on this assertion, defendants 2 and 3 were later impleaded in the proceedings.

After being impleaded, defendants 2 and 3 claimed that they had also entered into an agreement of sale with the first defendant on December 1, 2002, for 50 decimals (a portion of the same land) for a consideration of ₹2,95,000, part of which they alleged to have already paid. They subsequently filed a counterclaim against the first defendant, seeking conveyance of the entire land in their favour.

The Trial Court allowed this counterclaim, and the High Court upheld the decision, reasoning that it would avoid multiplicity of proceedings and that the maintainability of the counterclaim could be examined in the same suit. Aggrieved by these orders, the plaintiff approached the Supreme Court, contending that a counterclaim cannot be raised against a co-defendant within a suit filed by him.

Supreme Court's Analysis

The Supreme Court Bench examined the central issue whether a counterclaim can be maintained by one defendant against another co-defendant within a civil suit instituted by the plaintiff.

The Court noted that under Order VIII Rule 6A of the Code of Civil Procedure, 1908, a counterclaim is a defensive plea available only against the plaintiff. Its purpose is to enable the defendant to assert an independent cause of action arising from the same or a connected transaction, thereby avoiding multiple proceedings. However, the provision does not contemplate disputes between co-defendants within the same suit.

In its reasoning, the Court relied heavily on its previous decisions in:

- **Rohit Singh & Ors. v. State of Bihar**^[2], where it was held that a counterclaim cannot be raised against a co-defendant and must be directed solely against the plaintiff; and
- **Rajul Mano Shah @ Rajeshwari Rasiklal Sheth v. Kiranbhai Shakrabhai Patel & Anr.**^[3], which reiterated that a counterclaim cannot be used to establish independent rights against another defendant.

Applying these precedents, the Bench observed that defendants 2 and 3, despite claiming to have entered into an agreement with the first defendant, **had neither proved readiness and willingness** to perform their part of the contract nor shown any

valid cause of action connecting their claim to that of the plaintiff. Their assertions were inconsistent, as they themselves conceded that the plaintiff's father had purchased 43 decimals from the same property, and that their alleged agreement related to only 50 decimals.

Furthermore, the Court noted that even if the claim were genuine, it was **barred by limitation**, since the alleged cause of action arose in 2002, but the impleadment and counterclaim were filed only in 2006. Hence, any separate suit for specific performance would also have been time-barred.

The Court rejected the High Court's reasoning that entertaining such a counterclaim would prevent multiplicity of litigation, clarifying that procedural efficiency cannot override statutory provisions governing counterclaims.

Key Observations

1. Counterclaims must arise against the plaintiff, not between co-defendants.
2. Impleadment of defendants 2 and 3 was proper to address possession issues, but their counterclaim lacked legal foundation.
3. The limitation bar applied since the cause of action arose in 2002, and the impleadment was only sought in 2006.
4. The Court refused to grant liberty to defendants 2 and 3 to file a separate suit, as the claim was already time-barred.

Judgment

The Supreme Court allowed the appeal, setting aside the counterclaim of defendants 2 and 3. The matter was remanded to the Trial Court to proceed with the suit for specific performance, leaving all issues open except the counterclaim, which stood rejected.

Conclusion

The Supreme Court's ruling in *Sanjay Tiwari v. Yugal Kishore Prasad Sao & Ors.* reaffirms a crucial procedural principle a counterclaim cannot be directed against a co-defendant. By setting aside the counterclaim of defendants 2 and 3, the Court clarified that Order VIII Rule 6A CPC is intended solely to regulate disputes between the plaintiff and defendant, not among defendants inter se.

The judgment reinforces the need for procedural discipline and ensures that the mechanism of counterclaims is not misused to expand the scope of a civil suit beyond its original cause of action. The Court also rightly denied liberty to defendants 2 and 3 to file a separate suit, recognizing that their claim was barred by limitation and lacked substantive merit.

The decision is a guiding precedent for trial courts, emphasizing that counterclaims must remain confined to the statutory framework and cannot be invoked to resolve collateral disputes among co-defendants under the guise of procedural efficiency.

For more details, write to us at: contact@indialaw.in

[1] 2025 INSC 1310 (@ Special Leave Petition (C) No.11050 of 2025)

[2] (2006) 12 SCC 734

[3] (2025) 10 SCR 152

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