

Satyender v. Saroj, 2022 PLRonline 0600

(Appeal from (2017-4)188 PLR 678)

SUPREME COURT OF INDIA

Before: Justice Uday Umesh Lalit , Justice S. Ravindra Bhat and Justice Sudhanshu Dhulia

SATYENDER and Ors. - Appellants

Versus

SAROJ and Ors. - Respondents

Civil Appeal No. 4833 of 2022 (Arising out of SLP (C) No. 948 of 2018).

17.08.2022.

Civil Procedure Code, 1908, Section 100 and Order 8, Rule 6A - Punjab Courts Act, 1918, Section 41 - [CPC](#) , Order 8, Rule 6C - Counter claim - Is permissible in order to avoid multiplicity of litigation - Counter claim cannot exceed the pecuniary limits of the jurisdiction of the court, and that such counter claim must be instituted before the defendant has delivered his defence or before the time limit for delivering his defence has expired - Such a counter claim must be against the plaintiff - Held, in the present case the counter claim was not against the plaintiffs - Such a counter claim should have been excluded in terms of Order VIII, Rule 6C of the CPC.

Civil Procedure Code, 1908, Section 100 - Punjab Courts Act, 1918, Section 41 - Second appeal - State of Haryana a court in second appeal is not required to formulate a substantial question of law, as what is applicable in Haryana is Section 41 of the Punjab Courts Act, 1918 and not section 100 of CPC

Punjab Courts Act, 1918, Section 41 - Though the requirement of formulation of a substantial question of law was not necessary, yet Section 41 requires that only such decisions are to be considered in second appeal which are contrary to law or to some custom or usage having the force of law or the court below have failed to determine some material issue of law or custom or usage having the force of law - Therefore, what is important is still a "question of law" - Second appeal is not a forum where court has to re-examine or re-appreciate questions of fact settled by the Trial Court and the Appellate Court.

Counter claim - Not raised - Merely because the defendant did not raise a counter claim on a property it would not ipso facto mean that a decree ought to have been granted in favour of the plaintiffs - Plaintiffs have to prove their case on the strength of their evidence - Civil Procedure Code, 1908, Section 100 and



Order 8, Rule 6A.

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