

The filing of a counter-claim between co-defendants is not permitted under Order VIII Rule 6-A of the Civil Procedure Code

The Supreme Court in the case of **Rajul Manoj Shah vs Kiranbhai Shakrabhai Patel [2025 INSC 1109]** dated **September 12, 2025**, has held that a counter-claim under Order VIII Rule 6-A of the Civil Procedure Code, 1908 (CPC) can be filed only against the plaintiff, and the filing of a counter-claim between co-defendants is impermissible.

In this case, the appellant instituted a suit seeking a declaration and injunction against her sister-in-law (defendant no.1), challenging an agreement to sell, that had been executed in favour of respondent no.1 (defendant no.2). During the pendency of the proceedings, defendant no.1 passed away, and pursuant to a consent order of the Gujarat High Court, the Nazir of the City Civil Court, Ahmedabad, was substituted in her place. Later, the defendant no.2 sought to amend his written statement and introduce a counter-claim, praying for specific performance of the agreement to sell against the Nazir, who was representing the estate of the deceased defendant no.1, and also sought partition of the suit property.

The Apex Court found that in the present case, the defendant no. 2 sought to raise a counter-claim primarily for the relief of specific performance of agreement executed in his favour by deceased original defendant no. 1 with respect to her undivided share in the suit property, by a direction to the Nazir, the substituted representative of defendant no. 1, to execute a sale deed in pursuance of the agreement to sell.

The Apex Court therefore observed that the relief of specific performance as sought to be raised by defendant no. 2 cannot be set up by way of a counter-claim since the same is not directed against the appellant/plaintiff, but is instead directed solely against the co-defendant. Essentially, the defendant no. 2 is disentitled to raise a prayer of specific performance by way of counter-claim.

[Click on the link to read the original judgment](#)