

CRP No. 02/2021

MANAGING DIRECTOR, SIKKIM POWER
DEVELOPMENT CORPORATION

PETITIONER (S)

VERSUS

SENIOR BRANCH MANAGER,
ORIENTAL INSURANCE CO. LTD.

RESPONDENT (S)

For Petitioner : Mr. Sudhir Prasad, Advocate.

For Respondent :

Date: 20/08/2021

CORAM :

HON'BLE MR. JUSTICE JITENDRA KUMAR MAHESHWARI, CJ.

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Assailing the order dated 26.02.2021 rejecting the application under Order VII Rule 11 of the Code of Civil Procedure, 1908, for short, 'CPC', this Revision is filed by the plaintiff to reject the counter claim and on rejection of the said application, this Revision has been preferred.

I have perused the order impugned, on perusal thereto, it is apparent that the Court assigned the reason in detail causing delay by the plaintiff and observing about the question of limitation, being mix question of law and fact, however, the application so filed by the plaintiff was dismissed.

Learned Counsel appearing on behalf of the applicant referring the contents of the application inter alia contended that the date of cause of action has not been specified, therefore, in terms of Order VIII Rule 6A clause (2) and (3) of the CPC, the order of rejection is not in accordance with law and the Court has committed error of jurisdiction warranting interference in this Revision.

After having heard learned Counsel appearing on behalf of the applicant at length and on perusal of the provisions of Order VIII Rule 6A clause (2) and (3) of the CPC, the Legislator has made it clear that what would be the effect of



filing the counter claim and how it may be governed by the Court as per provisions of the Rules regarding. However, it is having nothing to do for specifying the cause of action filing a counter claim.

In view of the aforesaid, in my considered opinion, the order passed by the Trial Court does not suffer from any perversity illegality much less an error of jurisdiction warranting interference in this Revision.

Accordingly, this Revision Petition is dismissed in limine.

Chief Justice

jk/avi

