

IN THE DEBT RECOVERY APPELLATE TRIBUNAL AT CHENNAI

Dated the 28th Day of July, 2026

**PRESENT: HON'BLE MR. JUSTICE G. Chandrasekaran
CHAIRPERSON**

MA 48/2024

**(Arising out of I.A.No. 2311/2015 in O.A.No.258/2013 in counter claim
No.2/2014 on the file of DRT-I, R Ernakulam)**

Between

The Federal Bank Ltd.,
Regd. Office, Aluva,
Kerala State, having a Branch
Amongst other places at
Ernakulam/Panampilly Nagar,
Ernakulam District.

... Appellants

And

1. M/s. Sargam Builders (P) Ltd.,
Sargam House,
Waterland Road, Kadavanthara,
Kochi, Ernakulam District 682 020,
Rep. by VKA Rahim
(to be rep. by Liquidator, Sri Jasin Jose,
Ponamattam Madessery House, Mookannoor P.O.,
Ernakulam, Kerala 683 577)
2. Mr. V.K.A. Rahim,
S/o Mr. Kunjali Naina,
Sargam House,
Waterland Road, Kadavanthara,
Kochi, Ernakulam District 682 020.
3. Ms. Rasia Rahim,
D/o Mr.V.K.A. Rahim,
Sargam House,
Waterland Road, Kadavanthara,
Kochi, Ernakulam District 682 020.

...Respondents

Counsel for Appellant : M/s. P.V. Muralidhar

Counsel for Respondents : M/s Abraham K. John -R2 & R3

ORDER

This appeal is filed against the order passed by the learned Presiding Officer, DRT-I, Ernakulam in IA 2310/2015 in OA 258/2013.

2. OA 258/2013 filed by the appellant-Bank is still pending for recovery of money due from the respondent to the tune of Rs.1,10,25,692.86p. It appears that the respondents raised the plea of counter claim and made a prayer in counter claim against the claim of the appellant-Bank. On 01.09.2015, learned Presiding Officer passed the following order:-

“

Both sides are present. Let written statement to counter claim No.2/2015 and counter affidavit in IA 1354/2015 be filed within 10 days, as a last chance, failing which, the chance stands closed. Call on 22.09.2015 for enquiry.”

3. Aggrieved against this order, IA 2310/2015 was filed for reviewing the order passed by the learned Presiding Officer, insofar as directing the appellant to file written statement to the counter claim. It is submitted that the very claim made against the claim of the Bank by the counter claim is not maintainable and when the issue is pending, allowing the Bank to file written

statement is not correct and that was the reason IA 2310/2015 was filed.

Learned Presiding Officer, on considering the materials and submissions, dismissed the IA 2310/2015. Thus, this appeal is filed.

4. Learned counsel for the appellant-Bank submitted that when the issue of maintainability of counter claim is pending, directing the Bank to file written statement to the counter claim is not justified. Therefore, he prays for setting aside the order of the Tribunal.

5. In reply, learned counsel for the respondents 2 and 3 submitted that the appeal is not maintainable and since the written statement to counter claim is not filed.

6. Considered the rival submissions and perused the records.

7. It is not disputed that the respondent raised counter claim in their written statement. It is therefore relevant to extract the provisions of the RDB Act to understand as to whether the written statement to the counter claim is to be filed or not.

8. Section 19 (6), (7), (8), (9), (10), (10(A)) of the RDB Act reads as follows:-

(6) Where the defendant claims to set-off against the applicant's demand any ascertained sum of money legally recoverable by him from such applicant, the defendant may, at the first hearing of the application, but not afterwards unless permitted by the Tribunal, present a written statement containing the particulars of the debt 2[the debt sought to be set-off along with original documents and other evidence relied on in support of claim

of set-off in relation to any ascertained sum of money, against the applicant].

(7) The written statement shall have the same effect as a plaint in a cross-suit so as to enable the Tribunal to pass a final order in respect both of the original claim and of the set-off.

(8) A defendant in an application may, in addition to his right of pleading a set-off under sub-section (6), set up, by way of counter-claim against the claim of the applicant, any right or claim in respect of a cause of action accruing to the defendant against the applicant either before or after the filing of the application but before the defendant has delivered his defence or before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not.

(9) A counter-claim under sub-section (8) shall have the same effect as a cross-suit so as to enable the Tribunal to pass a final order on the same application, both on the original claim and on the counter-claim.

(10) The applicant shall be at liberty to file a written statement in answer to the counter-claim of the defendant within such period 3[as may be prescribed].

[(10A) Every application under sub-section (3) or written statement of defendant under sub-section (5) or claim of set-off under sub-section (6) or a counter-claim under sub-section (8) by the defendant, or written statement by the applicant in reply to the counter-claim, under sub-section (10) or any other pleading whatsoever, shall be supported by an affidavit sworn in by the applicant or defendant verifying all the facts and pleadings, the statements pleading documents and other documentary evidence annexed to the application or written statement or reply to set-off or counter-claim, as the case may be:

Provided that if there is any evidence of witnesses to be led by any party, the affidavits of such witnesses shall be filed simultaneously by the party with the application or written statement or replies filed under sub-section (10A).

9. In the aforesaid provisions sub-Section 19(9) and (10) deals with the scope of counter claim and need to file written statement in answer to the counter claim. As per Section 19(9) counter claim made under Sub Section (8) shall have the same effect as a cross suit and that applicant in the

OA shall be at liberty to file written statement in answer to the counter claim of the defendants within such period prescribed. Therefore, written statement to the counter claim in answer to the claim made in the counter claim is absolutely necessary. Thus, this Tribunal finds that there is no illegality or irregularity in the order passed by the learned Presiding Officer directing the Bank to file written statement to the counter claim.

10. In this view of the matter, this Tribunal confirms the order dated 13.10.2023 passed by the learned Presiding Officer, DRT-I, Chennai in IA 2310/2015 in OA 258/2013 and this appeal is dismissed. Appellant is directed to file a counter claim as directed by the learned Presiding Officer within a period of two weeks from the date of uploading of this order. Parties shall bear their own costs. Pending IAs, if any shall stand closed.

Sd/-
(JUSTICE G. CHANDRASEKHARAN)
CHAIRPERSON