

**(2008) 03 DEL CK 0203**

**In the Delhi High Court**

**Case No : I.A. No. 14558 of 2007 in C.S. (OS) 61 of 2006**

Anjulika Vinod Dewan

APPELLANT

Vs

Smt. Vijay Laxmi Chauhan and Others

RESPONDENT

**Date of Decision : 14-03-2008**

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 11 Rule 1, Order 11 Rule 2, Order 11 Rule 6, 151

**Citation : (2008) 102 DRJ 755**

**Hon'ble Judges : Badar Durrez Ahmed, J**

**Bench : Single Bench**

**Advocate : Rajeev K. Virmani, for the Appellant; Dinesh Agnani, for Defendant Nos. 1 to 5, Amit Siras and Amit Khemka for Defendant No. 6, for the Respondent**

## **Judgement**

Badar Durrez Ahmed, J.—This is an application filed on behalf of the plaintiff under Order 11 Rule 1 & 2 r/w Section 151 CPC for leave to deliver interrogatories. One of the questions in the suit is with regard to the property No. 11, Court Road, Gate No. 1, Civil Lines, Delhi-110 054. It is the case of the plaintiff that this property was acquired by the plaintiffs father though purchased in the name of the defendant No. 1. Consequently, it is the case of the plaintiff that she has a share in the property. On this question, the defendants have taken the stand in the written statement that the plaintiff is not entitled to any share in this property and that the late Shri Yograj Chauhan (father of the plaintiff and husband of defendant No. 1) did not own any immovable property at the time of his demise.

2. The learned Counsel for the plaintiff submitted that the interrogatories can be issued to the defendants so as to elucidate and clarify the matters in issue. This would also be necessary to cut short the controversy in the case. He submitted that the list of interrogatories given in annexure "A" to the application would be necessary and in support of this submission, the learned Counsel for the plaintiff/applicant placed reliance on two decisions of this Court in the cases of Smt.

Sharda Dhir Vs. Sh. Ashok Kumar Makhija and Others, and Tarun Kumar and Others Vs. Ajay Kumar, . In Sharda Dhir (supra) the learned Single Judge of this Court had observed as under:

The application was filed by the plaintiff under Order 11 Rule 1 CPC. This rule allowed the court to grant leave to any of the party of the suit to deliver Interrogatories in writing for examination of the opposite party relating to any matter in question in the suit. The object of this rule is that a party knows the nature of his opponent's case before hand in order to meet it at the hearing. Indeed, he is not entitled to know the fact which constitute evidence to prove the opponent's case. The nature of the case of the parties is disclosed in their respective pleadings but in a given case the pleadings may not sufficiently disclose the nature of the parties' case. In order to make good deficiency this rule has been enacted. It is now well settled that administering of Interrogatories is to be encouraged as it is a means of obtaining admissions of parties and tends to shorten litigation. As a general rule the Interrogatory should be allowed, whether the answer to them would either strengthen the case of the party administering them or to destroy the case of the adversary. The court should not be hyper-technical at the stage of the service of the Interrogatories. This rule is to be used liberally whenever it could shorten the litigation and serve the interest of justice. Indeed, it cannot be used as a means of obtaining information which may be admissible during the oral cross-examination of a party and his witnesses. Interrogatories cannot be disallowed merely because the party interrogating has other means of proving the facts in question. One of the important purpose of interrogatories is to obtain admission of material fact of a case. Under this rule the Interrogatories may be served with the leave of the court by one party to the other in a suit: (1) to ascertain the nature of his opponent's case and material facts Constituting it and (2) to support his own case by obtaining admissions or by impeaching or destroying his opponent's case. The Interrogatories which do not relate to any matter in question involved in the suit, indeed, would be deemed irrelevant even though they might be admissible in oral cross-examination of the witnesses. Rule 6 or Order 11 makes it further clear. It provides that objection to answer an Interrogatory on the ground that it is scandalous or irrelevant or not exhibited bona fide for the purpose of the suit, or with the matter inquired into are not sufficiently material at that stage or on the ground of privilege, or on any other ground will be taken in the affidavit in answer. Leave to deliver interrogatories does not imply an order to answer them and any objection to answer can be taken under the Rule. The court is required to decide whether the appellant should be allowed to interrogate the other side, hut it is not to determine what question should the opposite party be compelled to answer.

3. In Tarun Kumar (supra) a similar set of observations have been made by another learned Single Judge of this Court to the following effect:

4. The object of delivering interrogatories is seeking information from the

opposite party about certain facts which are to be proved in the case. Interrogatories can be for discovery of documents as well as for discovery of facts. The main object of interrogatories is to save expenses by enabling the party to obtain from his opponent information as to facts material to the question in dispute between them and to obtain admission of fact which he has to prove on any issue which is raised between them. Interrogatories are generally allowed to be delivered upon the adversary provided the said interrogatories are necessary for obtaining information from the adversary either to maintain the case of the party administering them or even to destroy the case of the adversary. Interrogatories cannot be allowed to be delivered in case they are in the nature of making fishing inquiries from the adversary. Interrogatories must be confined to facts which are relevant to be matters in question in the suit.

4. The learned Counsel appearing on behalf of the defendants submits that the plaintiff should do her own homework and establish her case and not require the defendant to furnish all the information which would disclose the evidence of the defendants. He submitted that the long list of interrogatories that have been set out in annexure "A" itself indicates that the plaintiffs interrogatories are in the nature of a fishing/roving inquiry and this cannot be permitted in the guise of interrogatories. He submitted that none of the interrogatories are necessary and the plaintiff ought to establish her own case which the defendants would defend by leading appropriate evidence.

5. I have examined the interrogatories which the plaintiff is seeking to be delivered to the defendants for their answers. I find that most of the interrogatories relate to elucidating details about certain pieces of information which would be more in the nature of evidence rather than answers to clarify the matter between the parties. However, I find that interrogatory Nos. 1 and 2 are the only interrogatories out of the list of 17 which would be relevant. Apart from this, the learned Counsel for the plaintiff pressed that interrogatory No. 15 should also be delivered to the defendants. That interrogatory refers to immovable properties held by the HUF of late Shri Ydgraj Chauhan and Sons during the years 2000-2001 to 2002-2003. "

6. I find that the entire interrogatories as set out in annexure "A" need not be delivered to the defendants requiring answers from them inasmuch as most are not relevant or in the nature of requiring the defendants to disclose their evidence. Consequently, the following three interrogatories are directed to be delivered to the defendants for their answers:

1. What was the consideration paid for purchasing/acquiring the immovable property No. 11, Court Road, Civil Lines, Delhi-110 054?
2. Who provided funds for payment of consideration referred to in Question-1 above?
3. Whether the HUF of Yograj Chauhan and Sons held any immovable properties during the years 2000-2001 and upto 01.01.2003?

The above interrogatories be answered by the defendant Nos 1-5 within four weeks.

This application stands disposed of.