
(1999) 09 KL CK 0047
In the High Court Of Kerala
Case No : C.R.P. No. 838 of 1999

P. Balan

APPELLANT

Vs

Central Bank of India, Calicut

RESPONDENT

Date of Decision : 22-09-1999

Acts Referred:

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

Citation : AIR 2000 Ker 24 : (2000) 1 CivCC 305 : (2001) 103 CompCas 746 : (2000) 1 ILR (Ker) 322

Hon'ble Judges : M.R. Hariharan Nair, J

Bench : Single Bench

Advocate : O. Ramachandran Nambiar and K.P. Santhi, for the Appellant; E.R. Venkiteswaran, for the Respondent

Judgement

M.R. Hariharan Nair, J.—The 1st defendant in Order Section 274/97 of the sub Court, Kozhtkode challenges the order passed in I. A. 6076/98 filed by him in the case. The request of the petitioner is that the plaintiff in the suit be called upon to answer the interrogatories presented by him. The Court below dismissed the petition with the following observations :

"Heard. The details and answers sought as per this I. A. are well within the knowledge of the petitioner and also revealed by the documents and Account sheet produced by the plaintiff. No further clarification necessary. I. A. dismissed. No costs."

2. The respondent herein filed the suit seeking recovery of a total sum of Rs. 4,29,345.23 from the defendant allegedly due on a term loan of Rs. 30,000/- given on 22-8-1981 and a cash credit transaction of Rs. 30,000/- allowed on the same date. The petitioner admitted his signatures in the relevant documents including the confirmation letter produced by the plaintiff; but contended that it was a document concocted using one of the signed blank papers which the petitioner was compelled to sign at the time of release of the loans. He challenged the statement of accounts and calculation of interest and even the

admissibility of the interest claimed by the plaintiff. According to him, only 12% interest was payable.

3. The interrogatories put forth included questions as to the exact amount of the loans; the precise rate of interest calculated; whether interest was enhanced at any time and if so at what rate; whether the 1st defendant has paid up any amount towards the loan and if so on which all dates; whether the amounts mentioned in the statement of account included anything other than the principal and interest; whether the loans in question were disbursed pursuant to any specific scheme introduced by the Government and whether the plaintiffs concern is accepted by the plaintiff as a small scale industry duly registered under the law. The plaintiff opposed the petition pointing out that the plaintiff himself knows the answers to most of these questions and that they are unnecessary and intended only to delay the trial of the suit. It was in this background that the aforesaid order was passed.

4. According to the learned counsel for the revision petitioner, the Court below has not considered the admissibility of the interrogatories from the correct perspective and the impugned order is also not speaking in nature. It is pointed out that in view of the specific contention in the written statement that the confirmation letter was cooked up using signed papers, the plaintiff is bound to convince the Court with regard to the admissibility of the various amounts mentioned in the statement as also the manner of calculation. It is also pointed out that since the contract is to pay interest linked with the R.B.I. rate, information is necessary with regard to the rate of interest actually prevailing from time to time and made applicable to the two loan transactions which are of different nature and that the answer to the interrogatories is hence quite essential.

5. Since there is a contention that the impugned order was passed without understanding the scope and nature of the provisions relating to interrogatories and in view of the request of Sri Ramachandran Nambiar that this Court might lay down the law on the point, I propose to deal with the matter in some detail. Order XI, Rule 1 of the CPC provides that either party to a suit may deliver interrogatories in writing for the examination of the opposite parties and that the interrogatories shall have a note at the foot thereof stating which of such interrogatories are to be answered by one or other of the parties. The proviso to the Rule is to the effect that interrogatories which do not relate to the matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness. Rule 2 enables the Court to take into account any offer which may be made by the parties sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to the matters in question and provides that leave shall be given as to such only of the interrogatories submitted as the Court shall consider necessary either for disposing fairly of the suit or for saving costs. Rule 6 is to the effect that any objection to answering any interrogatory on the ground that it

is scandalous or irrelevant or not exhibited bona fide for the purpose of the suit, or that the matters inquired into are not sufficiently material at that stage or on the ground of privilege or any other ground might be taken by the other side through an affidavit. Rule 7 enables the Court to set aside the interrogatories on the ground that they have been exhibited unreasonably or vexatiously or on the ground that they are prolix, oppressive, unnecessary or scandalous.

6. This Court had occasion to consider the scope of serving interrogatories in *Sree Padmanabha Dasa Marthanda Varma v. Moolan Thirunal Rama Varma* (1998) 1 KLT 113. It was observed that interrogatories have very often a more useful function in action than is always appreciated. Though interrogatories are to be kept strictly within the legitimate limits within which they are permissible, the administering of interrogatories is definitely a step which is more often desirable than undesirable and to be encouraged rather than to be discouraged because they frequently bring an action to an end at an earlier stage than otherwise would be the case, to the advantage of all parties concerned thereby shortening the life-span of a litigation.

7. The decision in *W. Section Insulators of India v. Power Systems and Projects* (1988) 1 KLT 297 of this Court specifically goes into the question whether details of accounts can be called for from the rival party. It was found that where an account is claimed or question of account arises, the interrogatories as to details of accounts may be allowed. The Court at that stage is not concerned with the ultimate entitlement of the plaintiff for the amount. The defendants cannot Justifiably take a defiant attitude or indifferent stand when it is bound by the provisions of law and the orders of Court. It may be that an answer bona fide given by a party may not be the correct or proper one on an elucidation of the issue in the light of the entirety of the evidence. In that way the Court may not be concerned at an interlocutory stage with the ultimate truthfulness or correctness of the answer. However, the defendant cannot, with impugnt, violate a direction to answer a question when the information is readily available with the defendant and the question is adjudicated by orders of Court as a relevant one to be answered by the defendants.

8. The object and purpose of serving interrogatories is to enable a party to require information from his opponent for the purpose of maintaining his own case or for destroying the case of the adversary. The answering of the interrogatories might save expenses and shorten the litigation by enabling a party to obtain from the other side information as to material facts regarding the questions in dispute or issues raised or to obtain admission of facts which the plaintiff has to prove on any issue. Answering the interrogatories might often shorten the trial proceedings and save the time of the Court and parties besides saving expenses for summoning witnesses, documents and the like. As a general rule, therefore. Interrogatories are to be allowed whenever the answer to them will serve either to help the party in proving his case or to destroying the case of the adversary. The power is not meant to be confined within narrow limits. It

should be used liberally whenever it can shorten the litigation and serve the interest of justice. Nevertheless, the power is to be exercised with care and caution so that it is not abused by any party. Interrogatories have to be confined to the facts which are relevant to the matters in question in the suit. A plaint or a written statement may not sufficiently disclose the nature of parties to the case, and to make good the deficiency, either party can serve interrogatories in writing which, when answered, would enable the Court to decide the suit without probing into the questions elaborately in the light of oral and documentary evidence. The Courts have to approach the question in a broad perspective aimed at seeing whether the grant thereof will enable fair trial and would save the cost of litigation to the parties. Of course, the possible objections specifically mentioned in Rule 6 of Order XI, C.P.C. also have to be considered. The interrogatories have to bear a reasonable close connection with the matters in question. A party is entitled to administer interrogatories to his opponents to obtain admission from him with the object of facilitating proof of his case as also to save the costs which may otherwise be incurred in adducing evidence to prove the necessary facts.

9. I find some merit in the contention of the revision petitioner that the question of admtssibility of the interrogatories have not been considered by the Court below from the right perspective. The order is not speaking in nature. It may be that some of the interrogatories are not admissible; but at least some of them cannot be stated to be totally irrelevant. One such question is the basis of calculation in the statement of account with regard to the interest prevailing from time to time. The petitioner's case that the agreement entered into between the parties mentioned only of interest linked with the R. B. I. rate and not any specific rate appears to be correct. A lot of time and energy can be saved if the specific rate of interest prevailing at each period is let known to the defendant so that he can verify the statement of accounts produced in the case from that perspective. It is true that the respondent is a Bank; but even Bank's statements can be erroneous. The impugned order is found to be defective as it has not considered each of the inter- rogatories bearing in mind the provisions of law and legal principles aforementioned. It is accordingly set aside and the matter is remitted to the Court below for fresh decision through a speaking order.

10. The respondent has a contention that the defendant is trying to delay the trial of the suit. Bearing in mind this aspect, it is ordered that the fresh order in the matter has to be passed by the Court below within a period of one month from the date of receipt of a copy of this order. The Court below will also make earnest efforts to dispose of the suit itself at the earliest.

The Revision is disposed of as above.