

**IN THE COURT OF THE PRINCIPAL CITY CIVIL AND
SESSIONS JUDGE, AT BENGALURU**

Dated this the 4th day of November, 2022

PRESENT: **Sri Ramachandra D.Huddar,**
B.Com., L.L.M.
Principal City Civil and Sessions Judge,
Bengaluru.

O.S.No.508/2018

Plaintiff : Mr.P.R.Naik,
S/o Ramachandra K.Naik,
Aged about 83 years,
Presently R/at Flat B13,
Fair Lawn CHS, Sion Trombay Road,
Chembur, Mumbai- 400071.

Represented by his
Power of Attorney Holder
Mr. Vivek P. Naik,
S/o P.R.Naik,
Aged about 48 years,
R/at 11C, Polaris,
Aquila Heights, HMT Main Road,
Jalahalli, Bengaluru- 560013.
(By Sri Nithyananda V.Naik, Adv.,)

Vs.

Defendants : 1. HKBK College of Engineering,
No.22/1, Near Manyata Tech Park,
Nagawara, Bengaluru- 45.

Represented by its Manager

2. Mr. Mohammed Rafi,
Aged about 58 years,

The Manager / Authorized Officer,
HKBK College of Engineering,
No.22/1, Near Manyata Tech Park,
Nagawara, Bengaluru- 45.

3. Mr.Faizal, S/o Khader C.M,
Working in HKBK College of
Engineering, No. 22/1,
Near Manyata Tech Park,
Nagawara, Bengaluru- 45.

R/at No.89, 3rd Cross,
Bhupasandra Main Road,
Bengaluru.

ORDER ON I.A.IV

The plaintiff has filed this application under Order XI Rule 1 and 14 of CPC, with a prayer to direct the defendants to answer the interrogatories and produce the documents mentioned in the application.

2. Along with the application, one Vivek P.Naik being the GPA Holder of the plaintiff, has filed affidavit stating that, plaintiff is the absolute owner of suit schedule premises bearing Plot No.89, 3rd Cross, Bhoopasandra Main Road, Bengaluru consisting of a duplex Bungalow with four bed rooms, four bathrooms, hall, furnished kitchen, dining hall described in the schedule.

It is specifically stated that, defendants have approached the plaintiff to let out the suit schedule property on lease basis. The suit schedule property was very much required for the use and occupation of 3rd defendant who is their staff member. The plaintiff was intended to let out suit schedule property on lease/rental basis agreed to let out schedule premises as requested by defendants.

It is further stated that, Rental Agreement dated 12.04.2016 was executed in favour of the first defendant and the then Manager Mr. Mohammed Rafi the Manager of HKBK College of Engineering is the signatory to the rental agreement representing HKBK college of Engineering in the capacity of its Manager.

It is further stated that, first defendant consistently represented that they have issued notice to 3rd defendant to vacate and hand over possession of premises to the plaintiff. Even they have also sought for refund of security deposit amount. But, the plaintiff was not agreeable for the same, as the 3rd defendant has stopped payment of rents from the

month of April, 2017. There were other correspondences did between plaintiff and defendants.

It is further stated that, plaintiff sought for judgment and decree directing the defendants to quit and deliver vacant possession of suit schedule property to him and for payment of arrears of rent and also for payment of damages in respect of user of schedule premises pursuant to the termination of tenancy from 01.11.2017 till the date of handing over vacant possession of the schedule premises to the plaintiff. The defendant No.1 and 2 have filed written statement along with counter claim to the suit filed by the plaintiff.

It is contended that, one Mr. Mohammed Rafi the Manager of HKBK College of Engineering filed written statement. It is contended that, the said Mohammed Rafi is no more. The first defendant has intentionally suppressed the material information required for adjudication of the suit.

It is further contended that, first defendant in the declaration submitted by it before the statutory Education authorities including All India Council for Technical and also before National Accreditation Council specifically mentioned

that HKBK College of Engineering is governed by a Board of Trustees of Karnataka State Muslim Federation an Educational Trust started in the year 1997 by Mr.C.M Ibrahim former Union Minister, Government of India.

It is further contended that, first defendant suppressed the material facts and the said interrogatories so stated in the application are very much required in the proper adjudication of this case. It is contended that, first defendant kept in complete dark as to what has transpired between the first, second and 3rd defendant. The same has to be brought on record by way of answering to interrogatories. If the application is not allowed, the plaintiff will be put to irreparable loss and injury. Therefore, for all these reasons, it is prayed to decree the suit as prayed for.

3. Defendant No.1 and 2 have not filed objections to the application. It is only defendant defendant No.3 has filed objections to the application. He contended in the objections that, defendant No.2 who represent the institutions. Rental agreement is executed between the plaintiff and the 1st

defendant. 1st defendant is liable for production of any documents as alleged in the application of the plaintiff.

It is further contended that, he was only a staff member of defendant No.1 and the documents as sought by the plaintiff are answerable by defendant No.1. He has nothing to do with the said documents. Already similar memo filed by plaintiff on 27.2.2022 came to be dismissed by this court. Hence, present application is not maintainable.

4. Defendant No.3 has filed written arguments which is nothing but replica of the objection statement.

5. Heard the arguments. Meticulously perused the records.

6. The points that would arise for my consideration are as under:-

1. Whether the plaintiff has made out acceptable and justifiable grounds to call for the answers from interrogatories so stated in the application and also permit the defendants to produce the documents as prayed for?

2. What order?"

7. My findings on the above points are as under:

Point No.1 : In the negative.

Point No.2 : As per final order
for the following:-

REASONS

8. **Point No.1:-** In this case by filing this application, the plaintiff has invoked the provisions of Order XL Rule 1 and 14 of CPC which speaks of discovery by interrogatories.

The said Order XL Rule reads as under:-

“In any suit the plaintiff or defendant by leave of the court may deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer”.

9. On scrupulous reading of the object of Order XL Order 1 of CPC, it is very well established that, the object of the interrogatories is to save expense by enabling a party to obtain from his opponent information as to facts material to the questions in dispute between them and to obtain admission of any facts which he has to prove on any issue which is raised between them, As a general rule,

interrogatories will be allowed whenever the answer to them will serve either to maintain the case of the party administering them or to destroy the case of the opponent.

10. Therefore, the provisions of Order XL Rule 1 of CPC cannot be invoked to make or compel the other party to reveal the details of his defences, or to state something contrary to what has been pleaded by the defendants. So to say, the interrogatories have to bear a reasonably 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.

11. So to say, administering interrogatories is to be encouraged because they not infrequently bring an action to an end at an earlier stage to the advantage of all parties concerned. Interrogatories must be confined to matters which are in issue or sufficiently material at the particular stage of the action at which they are sought to be delivered, or to the

relief claimed and as a general rule, perhaps to matters which are relevant to the facts directly in issue, but under some circumstances they may extend to the facts the existence or non-existence of the facts directly in issue. Interrogatories should be confined to obtaining from the party interrogated admissions of facts which it is necessary for the party interrogating to prove in order to establish his case.

12. Keeping the aforesaid principles in mind, now let me analyze whether the plaintiff has made out acceptable grounds to allow the application as prayed for.

13. As could be seen from the prayer so made by the plaintiff in this case, the plaintiff has sought a direction to the defendants to quit and deliver vacant possession of schedule premises to plaintiff; also directing the defendants to pay arrears of rent of Rs.3,50,000/- i.e. from 01.04.2017 to 31.10.2017; so also, directing the defendants to pay damages in respect of user of schedule premises pursuant to termination of tenancy i.e., from 01.11.2017 till the date of handing over vacant possession of schedule premises to the

plaintiff (Calculated the prevailing monthly rent i.e., Rs.50,000/ - per month); Rs.1,50,000/- till January 2018.

14. On scrupulous reading of the interrogatories so called upon by the plaintiff, i.e. who are the authorized officer of First Defendant, and First Defendant society is registered under which act, and who are the authorized persons and who are office bearer of First Defendant. Further, which is capacity or represented by 3rd defendant in first defendant education society. These are the interrogatories called upon by the petitioner to answer by the defendants. So for as objections to this application, defendant Nos.1 and 2 have not filed any objections. It is only defendant No.3 has filed objections.

15. In the written statement of defendant Nos.1 and 2, they have specifically contended that, services of the defendant No.3 terminated by the first defendant with effect from June 2016. It is further stated that, on 4.8.2016, second defendant on behalf of first defendant had issued a letter stating that, the premises is longer required for them and terminated the

tenancy with effect from 1.7.2016. It is further stated that, the second defendant also informed to the representative of the plaintiff regarding termination of tenancy and demanded the security deposit of Rs.5 lakhs paid by the first defendant at the time of taking the premises on lease. The plaintiff kept quiet, hence on 19.12.2016, first defendant represented by the second defendant issued another letter demanding repayment of security deposit of Rs.5 lakhs together with interest at the rate of 18% per annum.

16. So far as, tenancy is concerned, the plaintiff along with the plaint has produced rental agreement. The rental agreement is between plaintiff as first party and HKBK College of Engineering as the second party. That means, tenancy is between plaintiff and defendant Nos.1 and 2. It was allotted to defendant No.3 as per the case of plaintiff by defendant No.1 and 2. Now, the plaintiff is seeking the possession of the suit schedule property.

17. According to the plaintiff, even the defendants have also set up a counter-claim and in the counter-claim the defendant Nos.1 and 2 have prayed for recovery of security deposit of Rs.5 lakhs with interest at the rate of 18% per annum. On verification of the pleadings of both the parties, now the plaintiff wants certain queries for proving his case. Now, the plaintiff wants to prove his case that who is the authorized officer of first defendant and also whether the defendant society is registered or not. So also the plaintiff wants answers from the defendants that who were the authorized persons and who were office bearers of first defendant.

18. On scrupulous reading of the pleadings of defendants, though it is contended by defendant Nos.1 and 2 in the written statement about the services of defendant No.3 have been terminated, except the pleadings in the written statement, there is no evidence placed on record by the defendants. The plaintiffs counsel has issued notice to the defendants to quit and deliver the vacant possession of the suit schedule property. It is dated 10.10.2017. When the

plaintiff is having knowledge that, who is the tenant of the suit schedule property, the question of answering queries by way of interrogatories by the defendants do not arise. In this case, issues are yet to be framed and as defendants No.1 and 2 have set up a counter claim in this case, plaintiff has to contest the counterclaim also. At this stage, no other grounds have been made out by the plaintiff so as to call upon the defendants to answer the interrogatories. No sufficient material is placed on record by the plaintiff under Order XL Rule 1 of CPC. Now defendant Nos.1 and 2 have set up their defence by filing their written statement. When the plaintiffs have approached this court seeking possession of the suit schedule property, plaintiff has to stand on his own legs. It is based upon the rental agreement between plaintiff and defendant No.1. So, the defendant set up a plea that, the plaintiff has to refund security deposit along with interest. It is for the plaintiff to answer.

19. Interrogatories cannot be invoked to make or compel the other party to reveal the details of his defences, or to state

something contrary to what has been pleaded by the defendants. So to say, the interrogatories have to bear a reasonably 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.

20. Plaintiff has to prove his case with legal evidence. Such interrogatories can be elicited during course of cross-examination. Because, the tenancy is in between plaintiff and defendant Nos.1 and 2. Defendant No.3 was an employee of defendant No.1. Now, as per defendant No.1 and 2, the services of defendant No.3 have been terminated. As per the say of defendants, similar memo was filed by the plaintiff and it was rejected. But the plaintiffs have not challenged the said order before any court. Hence, that order has become final. No sufficient grounds have been stated by the plaintiff to answer

the interrogatories. Hence, point No.1 is answered in the ***negative.***

21. **Point No.2:** Resultantly, I pass the following:

ORDER

I.A.IV filed by the plaintiff under Order XI Rule 1 and 14 of CPC is dismissed.

However liberty is given to the plaintiff to file application during trial of the case, if warranted and advised.

(Dictated to the Judgment Writer, transcribed by her, Order corrected, signed and then pronounced by me in open court, on this the 4th day of November, 2022.)

(RAMACHANDRA D.HUDDAR),
Principal City Civil & Sessions Judge,
Bengaluru.