

IN THE COURT OF THE MUNSIF, KOCHI

Present :-

Smt. Simi P Siju, Additional Munsiff

Thursday the 27th day of November, 2025/6th Agrahayana, 1947

IA No. 8/2025 in OS No. 78/2024

Plaintiff/Petitioner:-

Devassy, aged 74 years, S/o.Pullan Iype, Pullan House, Nayarambalam, residing on the opposite side of Nobelia School, Kochi Taluk, Pin-682509

By Advs. Joseph Edakkat, Smitha R & Alen Renju

Defendant/ Respondent:-

Sudhakaran, S/o.Kumaran, aged about 76 years, Panakaparambil House, Nayarambalam Village, Kochi Taluk, Pin-682509

By Adv. C P Peethambaran & Ramseena Udayakumar

This petition is come up for hearing before me on 25.11.2025 and the court on 27.11.2025 passed the following:-

ORDER

Petition to deliver interrogatories to the respondent.

2. **Petition summary is as follows:-** The petitioner is the plaintiff in the above suit. In the paragraph 13 of the plaint the petitioner specifically stated that for the purpose of making water

connection from Kerala Water Authority obtained a consent letter for drawing the water connection. Now the defendant/respondent has produced a few documents so as to appear that he has obtained water connection to his house through plaint B schedule property and not through plaint A schedule. This has necessitated the petitioner to submit an interrogatory upon the defendant/respondent to answer the queries filed along with the petition here below:-

1. When did you obtain water connection to your house?
2. Was it obtained along with any other persons?
3. Through which property and survey number said pipe line was drawn.
4. Is it through A schedule/B schedule?
5. Who consented to cross the property for drawing water connection to your house?

3. The petitioner further contended that these interrogatories will help the court to understand exactly what the contentions of the respondent in the suit regarding the drawing of water connection to his house. Hence the petition.

4. The respondent/defendant filed objection stating that

the above petition is not maintainable either in law or on facts and is liable to be dismissed. The above petition is not admissible since the same is made at a point when the documents upon which both parties have relied are already produced before the court and the only thing left in the suit is the cross-examination of witnesses. The use of Order XI Rule 1 of CPC to apply for leave to serve interrogatories is entirely redundant in the current situation, since the purpose of interrogatories is merely to seek information not otherwise within the reach of the party making the application. As all papers relating to the alleged water connection and the rights of the parties concerned are already on record, no purpose would be served by the furnishing of interrogatories. The plaintiff intends to present this application merely to delay the proceedings and to per-empt the cross-examination pending. It is settled principle of law as laid down by the Hon'ble High Court of Kerala in Sivasankara Panicker V Vasanthakumari, 2025(3) KLT 361, that although the power to serve interrogatories ought to be exercised in furtherance of justice, the same should be exercised with great care and caution so as not to become an abuse. The court has categorically held that the test to be used is the test of

prejudice, even at the advanced stage of trial. If permitting interrogatories will result in prejudice to the opposite party, such use is to be rejected. In the instant case, permitting interrogatories after documentary evidence is already before the court and on the eye of cross-examination will substantially prejudice the defendant.

5. The interrogatories posed hereunder are strictly factual issues already substantiated by documents and aimed at being proved on cross-examination. The Hon'ble High Court in the same ruling has held that the interrogatories ought not to be permitted to discover within what case the opponent stands or to indulge in a fishing expedition or go on a roving inquiry. The interrogatories should pertain to 'matters in issue' in the case and not to those matters which can be elicited by evidence at trial. The interrogatories intended to be served in the present case are explicitly aimed at eliciting information which are part of the defendant's evidence and thus are not allowable. The objective of interrogatories is to preserve one's own case and to abbreviate the proceedings, but in the current case the same is being abused to delay and hinder the proceedings. The trial has come to the stage of

cross-examination and at this juncture forcing the defendant to respond to interrogatories would frustrate the right of effective and fair cross-examination and would squarely prejudice the defence. Hence the petition may be liable to be dismissed.

6. The following points arise for consideration:-

(i) Whether the petition can be allowed?

(ii) Reliefs and Costs.

7. Heard both sides.

8. **Point No.1 and 2** :- The petitioner/plaintiff has filed the present application seeking leave of this Court to deliver interrogatories to the defendant/respondent with respect to the water connection allegedly drawn through the plaint schedule property. The interrogatories proposed pertain to (i) date of obtaining water connection, (ii) whether it was jointly obtained with others, (iii) the property/survey number through which the pipeline was drawn, and (iv) the person who consented to drawing the connection.

9. On the other hand, the respondent contended that both parties have already produced their documents, and the only thing left in the suit is the cross examination of witnesses. It is further

contended that interrogatories under Order XI Rule 1 CPC are meant only to obtain information otherwise not available to the applicant and that all relevant documents concerning the water connection are already on record. The respondent contends that permitting interrogatories at this stage would cause prejudice, delay the trial, and amount to an attempt to ascertain the defendant's line of defence, which is impermissible.

10. This court considered the rival submissions made by the parties. Admittedly, the case was listed for trial. In **Baburaj K v Madhusoodhanan 2023 KHC 10706, 2023 KER 8528** the Hon'ble High Court of Kerala held that "12. *Under the Code, discovery means a formal pre trial process whereby the parties to the suit are given an opportunity to collect information from the adversary, which can be used for the trial. The information sought through the questions is termed discovery by interrogatories and the documents sought are termed discovery of documents under Rules 1 and 12 of the Order XI of the Code. Schematically, the above process is to be completed before the commencement of the trial.*" Moreover, in **Raj Narain v smt.Indira Nehru Gandhi and other 1972 KHC 648, AIR**

1972 SC 1302 the Hon'ble Supreme Court held that *“27. Questions that may be relevant during cross examination are not necessarily relevant as interrogatories. The only questions that are relevant as interrogatories are those relating to “any matters in question. The interrogatories served must have reasonably close connection with matters in question.”* In the present case, the information sought through the proposed interrogatories pertains to matters of fact which can be effectively elicited during the course of cross-examination of the defendant or the witnesses. The documents related to the water connection are already before the Court. Moreover, the present application is filed on the day when the case was posted for examination of plaintiff. They have ample opportunities to file the application at the pre trial stage permitting the interrogatories in the present case would not serve any purpose, particularly, when the documents are before this court. In such circumstances, if the application is allowed, the same causes prejudice to the opposite party and also causes tardy in the process of trial. Therefore, this Court is of the view that the petitioner has failed to make out a case for granting leave to deliver

interrogatories at this stage. Accordingly point No.1 and 2 are found against the petitioner.

In the result, the petition is dismissed without cost.

(Dictated to Confidential Assistant, transcribed by her, corrected and pronounced by me in the open court on this the 27th day of November 2025)

Sd/-
Simi P Siju
Additional Munsiff

APPENDIX : Nil

Id/-
Additional Munsiff

//True Copy//

Additional Munsiff

O R D E R

IA 8/2025

O.S. No.78/2024

Dated : 27.11.2025