

**IN THE HIGH COURT OF TANZANIA  
(COMMERCIAL DIVISION)  
AT DAR ES SALAAM**

**COMMERCIAL CASE NO. 8 OF 2007**

**BIN FIJAA INDUSTRIES LIMITED...PLAINTIFF**

**VERSUS**

**TANZANIA ELECTRIC SUPPLY  
COMPANY LIMITED..... DEFENDANT**

**R U L I N G**

**Date of final submission June 22, 2007.**

**Date of Ruling August 13, 2007.**

**MJASIRI J**

This is an application for leave for the applicant to deliver interrogatories which it seeks to administer to the Respondent. The Application is made under Order XI Rule 1,4,10 and 12 of the Civil Procedure Act Cap 33 [R.E.2002].

The general principle under the law is to allow such interrogatories as may be necessary either for disposing fairly or more expediently of the

case or for the purpose of saving costs. This is a matter of discretion of a judge. The guideline was set out in the case of **Aggarawal V Official Receiver** 1967 EA 585. It was stated in the above case that a Judge may refuse to grant leave to administer the particular interrogatories if they are prolix, oppressive and unnecessary. By unnecessary the rule means that the interrogatories will serve no useful purpose.

The main reason for granting leave to issue any particular interrogatories in respect of which leave is sought is if the Judge is satisfied that the answer to this interrogatory would bring the suit to an earlier close and result in saving costs.

I have carefully gone through and considered all the proposed interrogatories and the submissions made by Counsels for the parties. I have also taken into consideration the requirements under the law. I have also reviewed the legal position as presented in Sarkar on Code of Civil Procedure 10<sup>th</sup> Edition on page 1145. In the following cases cited in Sarkar (supra) it was stated as follows:

*“the interrogatories served must have reasonable close connection with the matters in question. The interrogatories in the nature of fishing enquiry cannot be allowed.”*

**AFL Developers PVt Limited V Veena Trivedi** AIR 2000 Del (356):

*"The interrogatories served must have reasonably close connection with matters in question. "**Rajnarain V Indira** 1972 SC 1302".*

*"The interrogatories should be directed to ascertain actual facts bearing upon issues arising in the case, but not as to conclusions of the law, inference from facts or construction of words or documents, "**Nittomaye V Soobul** 23 C117."*

In **Sutherland (Duke) V British Dominions Land Settlement Corporation Limited** 1926 (1) Ch 746 cited in Mulla, the Code of Civil Procedure 16<sup>th</sup> Edition it was stated that the administering of interrogatories must be encouraged as it is a means of getting admissions and tends to shorten litigation.

Having regard to the nature of the case and the circumstances I am of the view that the interrogatories sought are necessary. Following that, the Respondent/Plaintiff is required to answer the interrogatories within 4 weeks from the date of this order. It is so ordered.

Sauda Mjasiri

Judge

August 11, 2007

Delivered in Chambers in the presence of Mr. Johnson Advocate for the  
applicant/Defendant and Mr. Rwehumbiza advocate for the  
Respondent/Plaintiff.

Sauda Mjasiri

Judge

August 13, 2007

909 words

jd

I Certify that this is a true and correct  
of the original order of Judgement Rulling  
Sign \_\_\_\_\_  
Registrar Commercial Court Dsm.  
Date 20th Aug 07