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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.10.2026
PRONOUNCED ON : 13.11.2026

CORAM

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

O.A.Nos.860 and 861 of 2026
IN
E.L.P.No.18 of 2026

Udhayanidhi Stalin
S/o.M.K.Stalin
25/9, Chittharanjan Salai
Cenotaph 2nd Street
Teynampet, Chennai 600 018

Applicant in both OAs

Vs

P.Milany
S/o.K.Ponnuram
Selvaraj Illam
No.7-5-5/9, Sanjay Gandhi 1st Street
Palanichettipatti
Theni 625 531

Respondent in both OAs

PRAYER in O.A.No.860 of 2026 : Application filed under Order XIV Rule 8 of O.S.Rules and Rule 3 of the Rules of the Madras High Court Election Petitions, 1967 read with Order VI Rule 16 of the Code of Civil Procedure, 1908.

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PRAYER in O.A.No.861 of 2026 : Application filed under Order XIV Rule 8 of O.S.Rules and Rule 3 of the Rules of the Madras High Court Election Petitions, 1967 read with Order VII Rule 11 of the Code of Civil Procedure, 1908.

For Applicant : Mr.P.Wilson, Senior Counsel
for Mr. Richardson Wilson

For Respondent : Mr.J.Vinoth
for Mr.A.K.M.Venkatesh

COMMON ORDER

P.Milany, an independent candidate at the General Election to the Tamil Nadu Legislative Assembly, 2026, from the Chepauk constituency, has presented Election Petition No.18 of 2026 under Section 81 of the Representation of the People Act, 1951 ("*the RP Act*") seeking a declaration that the election of the returned candidate is void on the grounds in Sections 100(1)(c), 100(1)(d)(i) and 100(1)(d)(iv) of the RP Act.

2. For convenience, the applicant is referred to as "*the returned candidate*" and the respondent as "*the election petitioner*".

3. On receipt of notice, the returned candidate filed two

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applications. O.A.No.860 of 2026, under Order VI Rule 16 of the Code of Civil Procedure, 1908 ("CPC"), seeks to strike out paragraphs 6 to 23 of the election petition. O.A.No.861 of 2026, under Order VII Rule 11 CPC, seeks rejection of the election petition. The election petitioner resisted both applications by a common counter affidavit.

4. The application for rejection rests principally on the following grounds:

(i) The election petition was not presented within forty-five days of the date of election of the returned candidate. It was filed on the forty-sixth day, and is therefore barred by Section 81 and must be dismissed under Section 86(1) of the RP Act.

(ii) The averments are vague, lack material facts and do not satisfy Section 83 of the RP Act.

(iii) One Dilip Kumar, whose nomination is said to have been improperly rejected, has not been impleaded. In any event, his nomination was rightly rejected, since Clause 6.10.3 of the Handbook for

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Returning Officers, 2023 ("the Handbook") do not extend to an unrecognised political party.

(iv) The averment that the returned candidate was not present before the Notary at the time of attestation rests merely on the place of signature. It is speculative, and attestation is in any case a ministerial act that cannot vitiate an election.

(v) The value declared at Sl.No.7B(i) of the Form-26 affidavit includes the building on the property, so there is no suppression. The building was constructed by the lessee out of trust funds, so no disclosure was required at Sl.No.7B(ii); and the land itself was expressly declared.

(vi) The loan of Snow Housing Private Limited need not be disclosed. The company is a separate legal entity, and Sl.No.8 mandates disclosure of liabilities of the candidate and spouse alone.

(vii) The order dated 29.01.2025 of the District Registrar (Audit) is merely a communication and not

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2026:MHC:4551

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a demand upon the returned candidate. No liability arises until a demand is raised.

(viii) The loan advanced by the returned candidate's wife to Raj Promoters was disclosed at Sl.No.7A(iii), as it stood on the date of nomination. The election petitioner does not plead how the declared figure is incorrect. The alleged receivable of Rs.1,49,83,986/- is drawn from the statement for the financial year 2024-25, whereas the affidavit relates to 2025-26; the petition does not plead that the asset subsisted in that year and so omits material facts.

(ix) The investments declared at Sl.No.7A(iii) cannot amount to suppression, since the names of the companies need not be disclosed and the value on the date of nomination suffices. The dues of Red Giant Movies are the liability of a partnership firm, not of the wife of the returned candidate, who is not pleaded to be a partner.

5.1. Mr.P.Wilson, learned Senior Counsel for the returned

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candidate, submitted that the RP Act is a self-contained code and the provisions of the Limitation Act, 1963 and the General Clauses Act, 1897 have no application to election petitions. The right to be elected and the right to challenge an election are both creatures of statute and must be exercised strictly within the four corners of the RP Act, without dilution or deviation.

5.2. He submitted that an election may be called in question only by an election petition under Sections 80 and 81 of the RP Act, and that a petition not complying with Section 81 must be dismissed under Section 86. Section 81(1) prescribes forty-five days "*from*" the date of election, a period which, he contended, includes the date of election itself. The present petition, presented on the forty-sixth day, is therefore incompetent and liable to be rejected at the threshold. To buttress the said submission, he relied on the decisions in *Youaraj Rai v. Chander Bahadur Karki*[1] and *Kishorlal v. Parimal Nathwani*[2].

5.3. An election petition, he urged, must contain a concise statement of the material facts on which the petitioner relies. This

[1] *(2007) 1 SCC 770)*
[2] *2011 SCC OnLine Jhar 745*

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petition is bereft of them. He relied on the decisions in *Kanimozhi Karunanidhi v. A. Santhana Kumar*[3] and *Arikala Narasa Reddy v. Venkata Ram Reddy Reddygari*[4] to fortify the said submission.

5.4. It is submitted that instructions issued by the Election Commission under Article 324 of the Constitution carry the force of law, and the Handbook is mandatory. The Handbook provisions relied upon in the petition do not govern Dilip Kumar, whose nomination was therefore rightly rejected. The petition is also bad for non-joinder of a necessary party. His nomination was incomplete, and there is no averment that he chose to withdraw it. A challenge under Section 100(1)(c) of the RP Act is therefore unsustainable.

5.5. On Section 100(1)(d)(i) of the RP Act, he submitted that the defects pointed out are ministerial and do not materially affect the election, and that trivial irregularities cannot void it. A candidate may file up to four nominations; admittedly three were filed, each with its disclosures. The contention that, two nominations having been rejected, the affidavit accompanying the third is of no use has no foundation, because the affidavit serves only to disclose the

[3] *(2024) 18 SCC 592)*
[4] *(2014) 5 SCC 312*

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Order QR

required particulars, and that was done.

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5.6. The allegations of non-disclosure in the Form-26 affidavit are, according to learned Senior Counsel, false and vexatious. The value declared for the property includes the building; where the building was raised by a lessee, there is no suppression; and a sum never demanded is not a liability.

5.7. He also submitted that the liability of a corporate entity is not that of the returned candidate or his wife, the company being a distinct legal person. The election petition is silent on the investments of the wife of the returned candidate. The liabilities alleged on the basis of a statement as on 31.03.2025 cannot be the foundation of a challenge, as the position would have changed in the relevant financial year 2025-26.

5.8. It is further submitted that the wife's investment in Red Giant Movies, a partnership firm, does not make her a partner, and so no suppression arises. None of these allegations materially affected the election, and the pleadings on non-disclosure are

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VERDICTUM.IN
Order QR

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therefore vague, vexatious and devoid of material facts, and should be struck out and the election petition rejected. He relied on the decision in *Ajmera Shyam v. Kova Laxmi*[5], for the proposition that an omission not of a substantial character, and not materially affecting the result of the election, does not fall within Section 100(1)(d)(iv) of the RP Act.

6.1. Mr.J.Vinoth, learned counsel for the election petitioner, countered that the petition was presented within time. By virtue of Section 9 of the General Clauses Act, 1897, the first day is excluded, and the forty-five days run from the day following the date of election. He relied on the decision of the Three-Judge Bench of the Supreme Court in *Tarun Prasad Chatterjee v. Dinanath Sharma*[6].

6.2. The election petition, he submitted, contains a concise statement of all material facts on which each of the grounds under Sections 100(1)(c), 100(1)(d)(i) and 100(1)(d)(iv) of the RP Act rests. Specific facts are pleaded about the improper rejection of the nomination of Dilip Kumar. Under Section 82 of the RP Act, Dilip

[5] *(2026) 3 SCC 373*
[6] *(2000) 8 SCC 649*

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VERDICTUM.IN
Order QR

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Kumar need not be impleaded, since no declaration under Section 84 of the RP Act is sought and no corrupt practice is alleged against him. The Returning Officer rejected the nomination merely because the main candidate's nomination was accepted and the other was a substitute, without following instructions 6.10.3, 6.10.3(iv) and 6.10.3(vii) of the Handbook. The rejection was therefore improper.

6.3. Referring to the Form-26 affidavit annexed to the petition, he submitted that the notarisation does not conform to the prescribed form and that the nomination was therefore improperly accepted. The petition pleads, with particulars, the suppression of two buildings, of the returned candidate's liabilities to the Government, and of the investments and advances of his wife. The application offers only explanations and justifications. These raise triable issues; an explanation cannot be a ground for rejection or for striking out pleadings, since neither falls within any of the recognised grounds.

7. I have given anxious consideration to the rival submissions and have perused the material on record.

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8. O.A.No.861 of 2026 invokes Order VII Rule 11 CPC, and O.A.No.860 of 2026 invokes Order VI Rule 16 CPC, to strike out paragraphs 6 to 23 of the petition. The provisions read as follows:

ORDER VII RULE 11 OF CPC

***"11. Rejection of plaint**—The plaint shall be rejected in the following cases:—*

(a) where it does not disclose a cause of action;
(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
(c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
(d) where the suit appears from the statement in the plaint to be barred by any law;
(e) where it is not filed in duplicate;
(f) where the plaintiff fails to comply with the provisions of Rule 9;

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Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff."

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ORDER VI RULE 16

***"16. Striking out pleadings**.—The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading—*

(a) which may be unnecessary, scandalous, frivolous or vexatious, or
(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or
(c) which is otherwise an abuse of the process of the Court."

9. As per Order VII Rule 11 CPC, a plaint must be rejected if it falls within any of the enumerated clauses. It is well settled that, in considering such an application, the Court looks only to the averments in the plaint and, at the most, to the documents annexed to it. The written statement and the defence of the defendants are wholly immaterial at this stage and cannot be looked into. If a meaningful reading of the plaint as a whole shows that the suit is manifestly vexatious and meritless, disclosing no right to sue, the power under Order VII Rule 11 may be exercised, for such a proceeding ought not to be allowed to proceed. In this regard, useful reference can be made to the decision of the Supreme Court in

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VERDICTUM.IN
Order QR

Shakti Bhog Food Industries Limited v. Central Bank of India[7].

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10. I shall therefore examine each ground raised by the returned candidate and consider whether the election petition pleads material facts disclosing a cause of action to declare the election void, so that the right to sue is clear, or whether it is vexatious and liable to be rejected. The general election to the Tamil Nadu Legislative Assembly was announced on 15.03.2026, and the notification was issued by the Election Commission on 30.03.2026. Nominations were filed in accordance with the schedule, polling was held on 23.04.2026, and the results were declared on 04.05.2026, when the returned candidate was declared duly elected.

11. The election petitioner, a candidate at the election, calls the declaration of the returned candidate in question under Sections 100(1)(c), 100(1)(d)(i) and 100(1)(d)(iv) of the RP Act. The returned candidate seeks rejection of the petition on several grounds, which are dealt with separately below.

[7] *(2020) 17 SCC 260*

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LIMITATION:

12. The returned candidate contends that the petition was not presented within the period prescribed by Section 81(1) of the RP Act. The relevant provisions are extracted below:

> *"**81. Presentation of petitions**—*
> *(1) An election petition calling in question any election may be presented on one or more of the grounds specified in sub-section (1) of Section 100 and Section 101 to the High Court by any candidate at such election or any elector within forty-five days from, but not earlier than the date of election of the returned candidate or if there are more than one returned candidate at the election and dates of their election are different, the later of those two dates.*
> *Explanation.—In this sub-section, "elector" means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.*
>
> *(2) ****
>
> *(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.*

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***86. Trial of election petitions**.—*
(1) The High Court shall dismiss an election petition which does not comply with the provisions of Section 81 or Section 82 or Section 117.
Explanation—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of Section 98."

13. Section 81 of the RP Act permits an election petition on any of the grounds in Sections 100(1) and 101 of the RP Act to be presented within forty-five days from, but not earlier than, the date of election of the returned candidate. A petition that fails to comply with Section 81 of the RP Act must be dismissed by the Court under Section 86 of the RP Act.

14. The RP Act is a self-contained code. There is no room for condonation of delay, or for any liberal or sympathetic construction of the period prescribed for presenting an election petition. A delay of even a single day is fatal, and the petition must be dismissed under Section 86 of the RP Act. The right to be elected and the right

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VERDICTUM.IN

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to challenge an election are statutory rights, governed strictly by the Act.

15. The question is how the forty-five days are to be reckoned. Does the date of election of the returned candidate stand excluded, so that the period begins on the following day by virtue of Section 9 of the General Clauses Act, 1897? Or, is that date included and counted as the first day?

16. The issue is no longer *res integra* and has been settled by the Three-Judge Bench of the Supreme Court in *Tarun Prasad Chatterjee* (*supra*), where the election petition had likewise been presented on the forty-sixth day from the date of election. Relying on Section 9 of the General Clauses Act, 1897, the Supreme Court held that the Act gives statutory recognition to the general rule of construction that, in computing a prescribed period, the first day is excluded and the last day included. The Supreme Court held that the date of election must be excluded, so as to secure to the parties the full forty-five days for presenting the petition, and held the petition before it to be within time. The relevant passage reads:

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2026:MHC:4551

VERDICTUM.IN

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"10. Section 9 of the General Clauses Act, 1897 gives statutory recognition to the well-established principle applicable to the construction of statutes that ordinarily in computing the period of time prescribed, the rule observed is to exclude the first and include the last day.

11. In Halsbury's Laws of England, 37th Edn., Vol. 3, p. 92, it is stated as follows:

> *"Days included or excluded - When a period of time running from a given day or even to another day or event is prescribed by law or fixed as contract, and the question arises whether the computation is to be made inclusively or exclusively of the first-mentioned or of the last-mentioned day, regard must be had to the context and to the purposes for which the computation has to be made. Where there is room for doubt, the enactment or instrument ought to be so construed as to effectuate and not to defeat the intention of Parliament or of the parties, as the case may be. Expressions such as 'from such a day' or 'until such a day' are equivocal, since they do not make it clear whether the inclusion or the exclusion of the day named may be intended. As a general rule, however, the effect of defining a period in such a manner is to*

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2026:MHC:4551

VERDICTUM.IN

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exclude the first day and to include the last day."

12. Section 9 says that in any Central Act or regulation made after the commencement of the General Clauses Act, 1897, it shall be sufficient for the purpose of excluding the first in a series of days or any other period of time, to use the word "from", and, for the purpose of including the last in a series of days or any period of time, to use the word "to". The principle is that when a period is delimited by statute or rule, which has both a beginning and an end and the word "from" is used indicating the beginning, the opening day is to be excluded and if the last day is to be included the word "to" is to be used. In order to exclude the first day of the period, the crucial thing to be noted is whether the period of limitation is delimited by a series of days or by any fixed period. This is intended to obviate the difficulties or inconvenience that may be caused to some parties. For instance, if a policy of insurance has to be good for one day from 1st January, it might be valid only for a few hours after its execution and the party or the beneficiary in the insurance policy would not get reasonable time to lay claim, unless 1st January is excluded from the period of computation.

13. It was argued that the language used in Section 81(1) that "within forty-five days from, but not earlier

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than the date of election of the returned candidate" expresses a different intention and Section 9 of the General Clauses Act has no application. We do not find any force in this contention. In order to apply Section 9, the first condition to be fulfilled is whether a prescribed period is fixed "from" a particular point. When the period is marked by terminus a quo and terminus ad quem, the canon of interpretation envisaged in Section 9 of the General Clauses Act, 1897 require to exclude the first day. The words "from" and "within" used in Section 81(1) of the RP Act, 1951 do not express any contrary intention.

14. By Section 81(1), the legislation fixes the period for filing election petition and at the same time states that no elector or candidate shall file election petition before the date of election of the returned candidate and if there are more than one returned candidates at the election and dates of their election are different, the later of those two dates. The learned Senior Counsel for the appellant contended that if the date of election of the candidate is excluded from computing the period of limitation of 45 days, the period of limitation would be extended by one day and, therefore, it is against the mandate of the statute. It was also contended that the filing of the application on the date of election of the returned candidate cannot be considered as a valid presentation of petition as envisaged in the section. We

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do not think that any such interpretation is possible by a conjoint reading of Section 81(1) of the RP Act, 1951 and Section 9 of the General Clauses Act, 1897. The first day for the period of limitation is required to be excluded for the convenience of the parties and if the declaration of the result is delayed or is done late in the night, the candidate or elector would hardly get any time for presentation of the election petition. Law comes to the rescue of such parties to give full forty-five days' period for filing the election petition. Nevertheless, any petition presented on the date of election of the returned candidate would be certainly within the period of limitation as it is a presentation on the date of election of the returned candidate.

15. In the instant case, the date of election of the returned candidate being 28-11-1998, the election petition filed on 12-1-1999 on exclusion of the first day from computing the period of limitation, was in time and the learned Single Judge rightly dismissed the petition filed by the appellant. This appeal is without any merits and the same is dismissed, however, without costs."

17. Although *Tarun Prasad Chatterjee* (*supra*) holds that Section 9 of the General Clauses Act applies to the computation of limitation under Section 81(1) of the RP Act, so that the date of

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election is excluded from the forty-five days, learned Senior Counsel for the returned candidate vehemently contended, on the strength of *Youaraj Rai* (*supra*), that a later decision of a Three-Judge Bench held that the petition must be filed within forty-five days from the date of election, with the date of election included in the count.

18. A reading of *Youaraj Rai* (*supra*) shows that the applicability of Section 9 of the General Clauses Act was not in issue there. On the facts of that case, all other nominations had been withdrawn, and the sole remaining candidate was declared elected on the very day of withdrawal. The election petition was presented more than forty-five days from that date, though within forty-five days of the declaration of results in the other constituencies in the general election, and was held not maintainable, because the forty-five days ran from the date of election of the returned candidate. That date related back to the last date for withdrawal of nominations, on which the returned candidate stood elected. The decision turned on the identification of the date of election, and does not touch the exclusion of that date by Section 9 of the General Clauses Act. Reliance on the said decision is, therefore,

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misplaced.

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19. Reliance was also placed on the decision of the Jharkhand High Court in *Kishorlal* (*supra*), where the learned Single Judge, following *Youaraj Rai* (*supra*), rejected an election petition as time-barred by including the date of declaration of the result. It must, however, be noted that, by order dated 17.09.2012, the Supreme Court set aside the orders of the Jharkhand High Court and remanded the matter for a decision on merits, along with the question of limitation. That decision, therefore, affords no assistance to the returned candidate.

20. Applying the law laid down in *Tarun Prasad Chatterjee* (*supra*), the results having been declared on 04.05.2026, that date stands excluded under Section 9 of the General Clauses Act, 1897. The forty-five days, accordingly, commence on 05.05.2026 and expire on 18.06.2026. The election petition, presented on 18.06.2026, was filed on the last day of that period and is well within time. The objection on limitation fails.

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IMPROPER REJECTION OF THE NOMINATION OF DILIP KUMAR (SECTION 100(1)(c)):

21. The election petition invokes Section 100(1)(c) of the RP Act on the ground that the nomination of one Dilip Kumar was improperly rejected. Learned Senior Counsel for the returned candidate contends that, Dilip Kumar not being a party, the petition must fail, since he has sought no relief and the election petitioner cannot plead his cause. He further contends that instructions 6.10.3, 6.10.3(iv) and 6.10.3(vii) in Chapter 6 of the Handbook, on which the petition relies, apply only to candidates of recognised political parties; that only Clause 8.4.2(m) governs candidates of unrecognised registered parties; and that, since the petition does not plead that provision, it lacks material facts and must be rejected.

22. It is relevant at this juncture to refer to Sections 82 to 84 of the RP Act:

> ***"82. Parties of the petition***—A petitioner shall join as respondents to his petition—

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2026:MHC:4551

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(*a*) where the petitioner, in addition to claiming declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(*b*) any other candidate against whom allegations of any corrupt practice are made in the petition.

83. Contents of petition—

(1) An election petition—

(*a*) shall contain a concise statement of the material facts on which the petitioner relies;

(*b*) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(*c*) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

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Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

84. Relief that may be claimed by the petitioner— A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected."

23. Section 82 of the RP Act requires the petitioner to join the returned candidate where he seeks only a declaration that the election is void. Where he further claims a declaration that he himself or another candidate has been duly elected, all the other contesting candidates must also be joined. In addition, any candidate against whom an allegation of corrupt practice is made must be joined, whether or not relief under Section 84 of the RP Act is sought.

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24. In the case at hand, the election petitioner seeks only a declaration that the election of the returned candidate is void, and he has accordingly joined the returned candidate alone. No corrupt practice is alleged against Dilip Kumar, and relief is claimed only under Section 100(1)(c) of the RP Act on account of the improper rejection of his nomination. Sections 82 and 84 of the RP Act together show that the scheme of the Act contemplates a challenge founded on the improper rejection of the nomination of another candidate, without that candidate being joined. The question of impleading Dilip Kumar therefore does not arise, and the petition has been filed against the necessary party for the relief sought.

25. The averments in paragraphs 9(i), 9(ii) and 9(v) relate to the improper rejection of the nomination of Dilip Kumar. It is pleaded that Tamilaga Vetri Kazhagam (TVK) is an unrecognised registered political party and that Dilip Kumar filed his nomination on 06.04.2026 as a candidate set up by it. The nomination was rejected on 07.04.2026 for the following reason: "*Main candidate nomination is accepted. Hence substitute nomination is rejected.*" It is further

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VERDICTUM.IN
Order QR

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pleaded that he filed the nomination under Part-II and paragraph C(ii) of Part-III of Form-2B, subscribed by ten electors of the Chepauk constituency as proposers, and that the Returning Officer rejected it without following instructions 6.10.3, 6.10.3(iv) and 6.10.3(vii), failing to treat him as an independent candidate.

26. Learned Senior Counsel for the returned candidate vehemently contends that instruction 6.10.3 applies only to nomination papers of candidates set up by recognised national and State parties, and not to those set up by unrecognised parties. He also contends that paragraph 8.4 of the Handbook deals solely with the allotment of symbols, and that the election petitioner has pleaded nothing on instruction 8.4.2.

27. The averments show that Dilip Kumar filed his nomination on 06.04.2026 in Form-2B, completing Part-II and paragraph C(ii) of Part-III. At the scrutiny on 07.04.2026, he did not produce the authorisation of the political party concerned in Form-B. Clause 6.10.3(iv) of the Handbook provides:

> *"If a candidate, who filed his nomination paper as candidate claiming to be set up by an unrecognised*

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political party, fails to bring in his favour a notice from the concerned political party in Forms 'A' and 'B', his nomination paper will be accepted if it is subscribed by ten electors as proposers, and he would be deemed to be an independent candidate."

28. According to the nomination paper produced as document 14, it was subscribed by ten electors of the Chepauk constituency as proposers. The election petitioner, therefore, contends that the nomination ought to have been accepted, and Dilip Kumar treated as an independent candidate, under Clause 6.10.3(iv). Learned Senior Counsel answers that the candidate had indicated no order of preference of symbols, that the nomination form was thus incomplete, and that it was rightly rejected. The election petition, for its part, pleads that the omission to indicate a choice of symbols is not a defect of a substantial character under Rule 4 of the Conduct of Elections Rules, 1961 ("*the Election Rules*"), since, once a nomination is accepted, a symbol is allotted automatically.

29. Whether the nomination of Dilip Kumar nomination was improperly rejected, and whether paragraph 6 or paragraph 8 of the Handbook governs, are triable issues that cannot be resolved

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VERDICTUM.IN
Order QR

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without evidence. The petition pleads the material facts: the filing of the nomination in Form-2B, the particulars in Part-II and paragraph C(ii) of Part-III, the ground of rejection recorded by the Returning Officer, and the reliance on instruction 6.10.3(iv). Improper rejection of a nomination is a ground on which an election may be declared void under Section 100(1)(c) of the RP Act. The petition, therefore, falls within none of the grounds for rejection or for striking out at the threshold, before trial.

IMPROPER ACCEPTANCE OF THE NOMINATION OF THE RETURNED CANDIDATE:

30. Paragraph 10 of the petition states that the Form-26 affidavit filed with the returned candidate's nomination was defective, as it was not notarised in the form required by the Rules, and that the Returning Officer nevertheless accepted it. It further pleads that two nominations were filed on 02.04.2026, each with a Form-26 affidavit, and that another was filed on 06.04.2026, all being uploaded. On scrutiny, the Returning Officer accepted the first nomination of the returned candidate and rejected the others on 07.04.2026; that rejection is not under challenge. Rule 4A of the

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VERDICTUM.IN
Order QR

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Election Rules, as pleaded, requires the affidavit to be sworn by the candidate before a Notary. The petition alleges that the declaration and verification by the candidate, and the Notary's attestation, do not conform to the prescribed form, rendering the nomination defective. Since a defective nomination was accepted, the petition invokes Section 100(1)(d)(i) of the RP Act.

31. Referring to the affidavit, learned Senior Counsel for the returned candidate contended that the candidate had signed at the proper place and that the Notary had merely attested at two places, which is a clerical slip that does not invalidate the notarisation. As to the notarial certificate, he said that the nomination form admittedly contains one, and the rejection of another nomination does not make the affidavit improper. Moreover, neither the RP Act nor the Election Rules requires a separate notarial certificate.

32. He further contended that the manner of attestation is not a substantial or material defect capable of invalidating the notarisation or the nomination, and that the pleadings are therefore unnecessary and vexatious, and the relief under Section 100(1)(d)(i)

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN
Order QR

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of the RP Act unsustainable. It is common ground that the first nomination of the returned candidate was accepted and the others rejected. The rejected nomination forms, with their Form-26 affidavits, carry a notarial certificate duly attested by the Notary, whereas in the accepted nomination form the Notary's attestation appears at two places.

33. Whether the Returning Officer was justified in accepting the nomination, when its Form-26 affidavit is alleged to be not in accordance with the Rules, is a matter for the trial. It must be considered along with the other triable issues on Form-26, after evidence has been led.

SUPPRESSION AND NON-DISCLOSURE OF ASSETS IN THE FORM-26 AFFIDAVIT (SECTION 100(1)(d)(iv)):

34. Paragraphs 11 to 17 of the petition allege suppression of assets and liabilities by the returned candidate in the Form-26 affidavit. In summary, they are as under:

(i) **Residential building (Item 7B(iv)).** Only two buildings, at Royapettah and Pallikaranai, were

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2026:MHC:4551

VERDICTUM.IN

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Order QR

disclosed. The returned candidate purchased property at Ulundai Village, Thiruvallur Taluk and District, under sale deed dated 05.09.2012 (Document No.3612/2012). The Encumbrance Certificate dated 14.05.2026 shows a house on it, which has not been alienated, and its existence has been suppressed.

(ii) **Non-agricultural land (Item 7B(ii)).** The details of Plot No.108, Dr.Seethapathi Nagar, Velachery, were furnished. The extract of the Town Survey Land Register dated 14.06.2016, issued by the Tahsildar, Velachery and standing in the returned candidate's name, shows a storeyed building, whereas the sale deed dated 16.06.2017 describes vacant land. By comparing the two, the petition infers that substantial sums were invested in construction, which was suppressed.

(iii) **Liabilities to public financial institutions and Government (Item 8(i)).** The returned candidate and his wife stood as personal guarantors

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VERDICTUM.IN
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for a term loan of Rs.7 crores availed by Snow Housing Private Limited from the State Bank of India (SBI), secured by mortgage of land in Survey No.7, Neelankarai Village. The guarantee is reflected in the SBI sanction letter dated 23.08.2022, which was filed with the Registrar of Companies on 13.10.2022. The Encumbrance Certificate dated 08.06.2026 confirms that the loan had not been discharged on the date of nomination. The liability was suppressed.

(iv) **Government dues (Item 8(ix)).** A disputed liability of Rs.1,07,854/- to the Registration Department was suppressed. It arises from the order dated 29.01.2025 of the District Registrar (Audit), Registration District of Chengalpattu, noted in the Encumbrance Certificate dated 14.05.2026. In respect of Document No.3612/2012, proceedings under Section 47A(3) of the Indian Stamp Act are pending, under which the returned candidate is liable to pay a deficit of stamp duty and registration fee of Rs.1,07,854/-. The information furnished under the

https://www.mhc.tn.gov.in/judis

2026:MHC:4551

VERDICTUM.IN

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Order QR

RTI Act on 12.06.2026 confirms this liability as on the date of nomination.

(v) **Loans and advances (Item 7A(v)).** A loan of Rs.6.75 crores advanced by the wife of the returned candidate, Mrs.Kiruthiga, to Raj Promoters Private Limited was suppressed. The company's annual financial statement as on 31.03.2025, filed with the Ministry of Corporate Affairs on 20.01.2026, reveals this liability of the company to her.

(vi) **Other assets (Item 7A(viii)).** A receivable of Rs.1,49,83,986/- due to the wife of the returned candidate from Raj Promoters Private Limited was suppressed. The company's financial statement discloses it as a trade payable to her.

(vii) **Investments (Item 7A(iii)).** The market value of the returned candidate's investments is stated as Rs.5,41,260/-, and his wife's as Rs.3,96,885/-, but the names of the mutual funds, the units and the folio numbers are not furnished. For shares, only a book value of Rs.16,50,100/- is given for the returned

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VERDICTUM.IN
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candidate and Rs.1,40,300/- for shares in unlisted companies. The names of the unlisted companies, the number of shares and their current market value are not disclosed.

(viii) **Jointly held assets (Item 7A).** The affidavit declares that the wife has invested Rs.2,63,58,142/- in Red Giant Movies. The GST portal discloses that Red Giant Movies is a partnership firm, yet the extent of her joint ownership or share of interest has not been disclosed, and stands suppressed.

35. Learned Senior Counsel for the returned candidate answered these allegations one by one. On Item 7B(iv), the property at Ulundai Village was declared at Rs.2,79,96,440/-, a value that includes the building.

36. Though the building was not separately valued, the value furnished for the Ulundai land is inclusive of it, so the building has been accounted for and there is no suppression. It is immaterial whether the property is declared as residential land or under the

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VERDICTUM.IN
Order QR

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head of residential property, since a building may well be constructed on agricultural land.

37. As to the building at No.108, Raja Street, Dr. Seethapathi Nagar, Velachery, under Item 7B(ii), the form requires disclosure only of investments made by the candidate or spouse towards construction. The land was leased to SS Education Trust on 31.05.2018 for ten years, and the Trust made the construction. Since neither the returned candidate nor his spouse constructed anything, no disclosure was required and there was no suppression.

38. On the personal guarantee for the loan of Snow Housing Private Limited, he submitted that this is not the liability of the returned candidate or his wife, the company being a separate legal entity. A guarantor's liability arises only upon default by the principal borrower and invocation of the guarantee by the lender, and the petition does not plead that the loan became overdue or that SBI invoked the guarantee. It was therefore not a liability on the date of the affidavit, and its non-disclosure is no suppression.

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VERDICTUM.IN
Order QR
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39. On the dues of Rs.1,07,854/-, he contended that the proceedings of the District Registrar are only an internal communication, and that until a demand is raised on the returned candidate it is no liability, so that there was no suppression on the date of nomination. As to the wife's investment in Raj Promoters Private Limited, stated as Rs.5,76,23,762/-, and the corresponding receivables, the financial statement relied upon relates to 2024-25, whereas the nomination was filed in 2025-26, when the figures would have changed. The petition does not plead how the figures for the year ending 31.03.2026 were verified, so the allegations are vague and devoid of material facts and deserve to be rejected.

40. On the mutual funds, he contended that Form-26 does not require the names of the funds or folio details, and that only their value is sought, which has been furnished. On Red Giant Movies, he contended that the wife is only an investor and not a partner, and that the petition does not say on what basis she is claimed to be a partner. The allegation of non-disclosure of a partnership interest is therefore devoid of material facts.

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN
Order QR

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41. The election petition furnishes particulars of the two properties and of the construction on them, by way of the Town Survey Land Register extracts and the Encumbrance Certificates, and thereby pleads the existence of the two buildings belonging to the returned candidate. It cannot be said that these averments are unnecessary or vexatious, or that they disclose no cause of action. The explanations offered by the returned candidate cannot be considered at this stage. Whether the buildings were included in the declared values, and whether construction by a lessee needed to be disclosed, are triable issues.

42. The petition annexes the order dated 29.01.2025 of the District Registrar (Audit), which fixes a liability of Rs.1,07,854/- on the returned candidate in respect of the property registered at the Sunguvarchatram Registrar Office, and relies on the RTI information of 12.06.2026 to show that the liability persisted on the date of nomination. Whether a demand was raised, and whether it matured into a liability as the returned candidate disputes, is a triable issue.

43. The returned candidate contends that his and his wife's

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN
Order QR

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liability as guarantors for the Rs.7 crore term loan of Snow Housing Private Limited arises only upon default by the borrower and invocation of the guarantee by the bank. The petition furnishes the particulars of the guarantee, the sanction letter of the bank and the Encumbrance Certificate dated 08.06.2026, showing the term loan to be outstanding on the date of nomination. As per Section 128 of the Indian Contract Act, 1872, the liability of a guarantor is co-extensive with that of the principal debtor. Whether there was a liability of the returned candidate to SBI that required disclosure therefore calls for a full trial, as the necessary material facts have been pleaded.

44. As to Clause 7A(v), the election petitioner asserts that the advances of Rs.6.75 crores and the receivables of Rs.1,49,83,986/- from Raj Promoters Private Limited were reported in the company's annual financial statement as on 31.03.2025, filed with the Ministry of Corporate Affairs on 20.01.2026, and were suppressed in the Form-26 affidavit.

45. The petition further pleads that, under Clause 7A(iii), the

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VERDICTUM.IN
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omission to furnish the names of mutual funds, folio numbers and particulars of shares, together with the non-disclosure of the advances receivable from the private limited company on the date of nomination, amounts to suppression. The returned candidate contends that it is sufficient to furnish the overall value of the investment, without particulars of folios and units for each holding. That too is a matter for trial.

46. The returned candidate also contends that the form does not require disclosure of partnership details and that his wife is not a partner in Red Giant Movies. The petition, relying on the GST portal, asserts that Red Giant Movies is a partnership firm in which she invested as a partner and that this joint ownership was not disclosed. Whether the investment of Rs.2,63,58,142/- reflects her status as an investor or as a partner, and whether there was any non-disclosure, are issues for determination after evidence has been led at the trial.

CONCLUSION:

47. As noted earlier, on an application to reject a plaint under

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VERDICTUM.IN
Order QR

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Order VII Rule 11 CPC, only the averments in the plaint or election petition read as a whole, together with the documents filed with it, may be considered. The written statement and any material put forward by the defendant are immaterial at this stage. The election petition here pleads the material facts on the alleged suppressions in the Form-26 affidavit, in support of the relief under Section 100(1)(d)(iv) of the RP Act.

48. The election petition furnishes the necessary material facts on the improper rejection of a nomination, the improper acceptance of the nomination of the returned candidate, and the alleged suppressions, in support of the grounds under Sections 100(1)(c), 100(1)(d)(i) and 100(1)(d)(iv) of the RP Act. These issues call for a full trial. Whether there has been non-disclosure and, if so, whether it is substantial enough to have materially affected the result of the election, can be decided only after evidence has been led. The decision in *Kanimozhi Karunanidhi* (*supra*), on which learned Senior Counsel relied, is therefore inapplicable on the facts of this case.

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN

Order QR

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49. For the aforegiven reasons, the petition does not fall within any clause of Order VII Rule 11 CPC and does not lack the material facts required by Section 83 of the RP Act. The pleadings in paragraphs 6 to 23 are neither unnecessary, scandalous, frivolous nor vexatious, nor do they tend to prejudice, embarrass or delay a fair trial or amount to an abuse of the process of the Court. Order VI Rule 16 CPC is therefore not attracted.

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN

Order QR

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50. Accordingly, **O.A.Nos.860 and 861 of 2026 stand dismissed.** The observations in this order are confined to the limited purpose of deciding these applications, and shall not be construed as an expression of opinion on the merits of the election petition, which shall be decided on the evidence at the trial.

The returned candidate shall file his reply statement within four weeks from today. List the Election Petition on 11.12.2026.

13.11.2026

Index : Yes
Neutral Citation : Yes
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https://www.mhc.tn.gov.in/judis

2026:MHC:4551

VERDICTUM.IN

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Order QR

G.ARUL MURUGAN, J.

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Pre-Delivery Common Order in
O.A.Nos.860 and 861 of 2026
IN
E.L.P.No.18 of 2026

13.11.2026

https://www.mhc.tn.gov.in/judis