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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2026

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Original Application No.909 of 2026
in
ELP.No.50 of 2026

C.Joseph Vijay .. Applicant(s)

Vs.

1.S.Dinesh

2.The Returning Officer,
12-Perambur Assembly Constituency,
Office of the Returning Officer,
Perambur, Chennai, Tamil Nadu.

3.The Election Commission of India,
Nirvachan Sadan, Ashoka Road,
New Delhi – 110 001. .. Respondent(s)

PRAYER

To reject the Election Petition under Order VII Rule 11 of the Code of Civil Procedure in the above mentioned Election Petition No.50 of 2026, with exemplary cost.

For Applicant(s): Mr.Gopal Shankarnarayanan
Senior Counsel
for M/s. Dixita Gohil

For Respondent(s): Mr.N.C.Ashok Kumar
for Mr.V.R.Shanmuganathan for R1

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ORDER

I heard Mr.Gopal Shankarnarayanan, Senior Counsel for Ms.Dixita Gohil for the applicant, Mr.N.C.Ashok Kumar for Mr.V.R.Shanmuganathan for 1st respondent.

2.The present application seeks rejection of the election petition filed by the 1st respondent herein.

3.For the sake of convenience, the parties will be referred to as the election petitioner and returned candidate.

4.ELP.No.50 of 2026 has been presented by a voter. He claims to possess a voter ID bearing number TWT0707174 and is in the voter's list of 12-Perambur Assembly Constituency. The Election Petition invokes Sections 80, 81, 82, 83, 84, 33, 33A, 36, 100(1)(b), 100(1)(d)(i), 100(1)(d)(iv) and 123(2) of the Representation of the People Act, 1951 (hereinafter referred to as the '1951 Act') read with Rule 4A of the Conduct of Election Rules, 1961 and Rule 2 of the Madras High Court Election Petition Rules, 1967.

5.The petitioner seeks for a declaration that the election of the returned candidate from the 12-Perambalur Assembly Constituency in the General

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Election to the Tamil Nadu Legislative Assembly on 23.04.2026 is null and void and for costs.

6.The dates and events of the General Election to the Tamil Nadu Legislative Assembly for the year 2026 are as follows:-

Sl.No.	Date	Event
1.	15.03.2026	Announcement of Election by the Election Commission of India (ECI)
2.	30.03.2026	Notification of Election issued
3.	03.04.2026	Returned candidate filed his nomination and an affidavit as per Form 26
4.	06.04.2026	Last date for filing nominations
5.	07.04.2026	Nominations are scrutinised and the Returned Candidate's nomination is accepted
6.	09.04.2026	Last date for withdrawal of candidature
7.	23.04.2026	Date of polling
8.	04.05.2026	Declaration of election results

7.The election petition has been presented within a period of 45 days from the date of result, (i.e.,) on 17.06.2026 and therefore, it is in time.

8.The case of the election petitioner is entirely based on Form 26 filed by the returned candidate under Rule 4A of the Conduct of Election Rules, 1961 read with Section 33A of the 1951 Act. According to him, the returned candidate has deliberately, wilfully suppressed materials, misrepresented and

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falsely declared material information as regards his immovable properties. The petitioner states, on account of the several defects in the nomination, the Returning Officer (hereinafter referred to as 'RO') ought to have rejected the nomination at the time of scrutiny, since the defects are "**substantial in character**". Therefore, the acceptance is improper.

9.Secondly, the suppression by the returned candidate of several immovable properties, inflating the registration values of the properties in some cases, characterising a settlement received from his living father as "inherited" property and claiming the title with respect to one property in Kodaikanal, of which the part survey number is a Government poramboke land, attract the vice of corrupt practice. Therefore, Section 123(2) of the 1951 Act is attracted and the election has to be declared as void under Section 100(1)(b).

10.Thirdly, the non-compliance with Sections 33 and 33A of the 1951 Act and Rule 4A of the Conduct of Election Rules, 1961, has materially affected the election and attracts Section 100(1)(d)(iv) of the 1951 Act.

11.The petitioner, pleading that there are inherent contradictions in the affidavit, has relied upon registered sale deeds and documents obtained from the Registration Department from the State of Tamil Nadu and has filed the same

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along with the Election Petition.

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Alleged suppression and misstatement; property-wise transactions:-

12.Rule 4A of the Conduct of Election Rules, 1961 read with Form 26, requires disclosure of four kinds of immovable properties. They are:

(i)Agricultural land;

(ii)Non-agricultural land;

(iii)Commercial building;

(iv)Residential building.

13.The allegation made by the petitioner are as follows:-

(i)The returned candidate had purchased a property comprised in Survey No.256/3 part of Banruti Village, Sriperumbudur Taluk, Kanchipuram District. The purchase was made on 06.01.2026 and registered as Document No.86 of 2026 on the file of Sub Registrar Office, Walajabad. The vendor was one M/s.PSP Infrastructures. The extent of the property was 3 acres and the value is around Rs.30 crores. The returned candidate has deliberately suppressed this purchase.

(ii)The returned candidate claimed that he is the owner of the property

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situated at S.No.2120 part, fields 3 and 4 of Vilpatti Village, Kodaikanal Taluk, Dindigul District. The purchase was made on 31.01.1997 for a consideration of Rs.15,000/- each and it had been stated the market value is around Rs.10 lakhs each. According to the election petitioner, this claim is false as Survey No.2120 part is a Government land classified as 'poramboke' in the 'A' register for the village.

(iii)The returned candidate has claimed that he is the owner of the property situated in Survey Nos.4/3B, 4/3C, 4/3D of Porur Village. He declared that he had purchased an extent of 33,955 sq.ft on 21.06.2010 for a sum of Rs.9,13,91,456/- and that the present market value of the property is around Rs.15 crores. The returned candidate has purchased three registered documents in Document Nos.6677 of 2010, 6678 of 2010 and 6679 of 2010. The extent covered under these documents are 13,000 sq.ft below the claim made by the returned candidate and covers only 20,773 sq.ft. The purchase value is around Rs.7.5 crores. Therefore, the election petitioner asserts that the returned candidate has deliberately overstated the extent of his holding and the price of purchase.

(iv)Insofar as the non-agricultural land in Neelankarai Village is concerned, the returned candidate declared he owned S.Nos.28/1B, 28/3A,

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28/3B and purchased them for a sum of Rs.2,83,57,920/-. According to the election petitioner, he had purchased the property vide Document No.4052 of 2013 dated 06.06.2013 for a value of Rs.2.40 crores and hence, the value stated in Form-26 is not correct.

(v)With respect to the commercial property comprised in Survey Nos.194/1 part and 194/2 part situated in Padi Village, Chennai, the returned candidate claimed that he purchased the same on 03.03.2009 for a sum of Rs.1,95,59,100/- and had incurred the construction cost of Rs.3,90,00,747/-. According to him, the present market value is Rs.7 crores. The election petitioner states that this averment is absolutely false. The constructed area is not as stated in the Form 26, but an extent of 23,460 sq.ft. As early as on 12.02.2026, the returned candidate had sold the property to one M/s.Olive Foundation for a sum of Rs.35 crores under Document No.1099 of 2026 on the file of Sub Registrar Office, Villivakkam. The returned candidate had suppressed the receipt of Rs.35 crores from M/s.Olive Foundation. Apart from this suppression, it is further alleged that the claim of the returned candidate that he had purchased the property on 03.03.2009 is absolutely false. He had acquired by way of a deed of exchange dated 03.03.2009 entered into with the Tamil Nadu Housing Board as evidenced in Document No.574 of 2009.

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(vi)The returned candidate in Form 26 had disclosed that he is the owner of the property situated in T.Nagar comprised in T.S.No.6313/2, Block No.138. The building is to an extent of 7,366 sq.ft and cost about Rs.17,43,13,815/-, for purchase and the construction and development costs being, Rs.17,30,39,670/-. The election petitioner alleges that the affidavit does not disclose the extent of land owned by him nor the extent of constructed portion. According to him, as per the deed dated 11.12.2014, the extent is 7,366 sq.ft of land with 1,106 sq.ft of building for Rs.16 crores. The election petitioner, insofar as this property is concerned, has suppressed the land area and has falsely declared the construction cost. The election petitioner has set forth similar allegations as regards the properties situated in Sholinganallur and Koppur.

(vii)The next property that is pointed out is the residence of the returned candidate at Neelankarai. It is comprised in Survey No.92/2A1 and to an extent of 17,100 sq.ft. In Form 26, it has been stated that the property is inherited and the construction cost for 18,633 sq.ft of built up area was Rs.18,73,74,753/-. The market value has been declared as Rs.20 crores. According to the election petitioner, the claim of the returned candidate that it has been inherited by him is totally false. The returned candidate had secured title under a registered deed of settlement executed by his father on 01.07.2005 in Document No.3871 of 2005. Therefore, it is urged that the returned candidate has suppressed the

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tracing of his title. It is further alleged that even in the year 2005, the value of the property was Rs.1,41,96,200/-. The declared construction cost is 13 times the building value and no basis has been given for 18,633 sq.ft built-up area or for the cost incurred towards construction.

(viii)With respect to the property in Saligramam situated in T.S.No.79/0, Block No.36 of Saligramam Village, while the returned candidate has claimed that it has been inherited and its market value is Rs.1,83,69,000/-, the election petitioner states that no material has been disclosed to show how it was acquired. He points out that the property was purchased under Document No.236 of 1999 and therefore, calling it as inherited is a serious falsehood. Yet again, with respect to the property situated in Survey No.107/2A1A3, Form 26 has declared the extent as 3,420 sq.ft of land with 6,744 sq.ft of construction and the construction cost at Rs.31,96,331/-. The market value is at Rs.1.80 crores. In paragraph No.26 of the petition, it is alleged that no supporting material for extent of construction or the expenditure incurred has been disclosed.

(ix)With respect to the property situated in R.S.Nos.4569/34, 4569/35, 4569/17 Block 100 and 4310/5 Block 96 of Mylapore Village, Form 26 states it was purchased on 03.12.2021 at the cost of Rs.97,21,165/- and the cost of

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construction is Rs.41,33,62,765/-. The market value being at Rs.45 crores. Paragraph No.27 of the petition alleges that the sale deed dated 03.12.2021 in Document No.3984 of 2021 shows that a sum of Rs.89,18,428/- had been paid for undivided share. The construction agreement, which had been entered into with one M/s.Appaswamy Real Estate on 30.11.2021 for a sum of Rs.25,03,11,687/- in Document No.3983 of 2021, was suppressed and the construction cost has been inflated in Form 26.

(x)The election petitioner states that insofar as the property situated in T.S.No.12, R.S.No.11 Part Block No.10 in Pallipattu Village is concerned, the returned candidate has made a claim that he has spent a sum of Rs.89,12,795/- on the development of the property, without any basis.

(xi)In paragraph No.29 of the petition, he states the purchase of vacant land to an extent of 12,000 sq.ft in Old S.No.12/B, R.S.No.12/1 subsequent S.No.12/1B in Sholinganallur for a sum of Rs.2,05,27,903/- has been falsely declared instead of Rs.1.80 crores as purchase value.

(xii)With respect to the property situated in Padur Village, the cost of acquisition is shown as Rs.11,51,88,120/-. A superstructure of 1,02,108 sq.ft is said to be available thereon. The election petitioner urges that a vacant land to

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an extent of 2.65 acres was purchased for Rs.10.61 crores. Therefore, the disclosure is mutually contradictory and requires adjudication.

(xiii)Finally, Form 26 has disclosed the returned candidate owns a property to an extent of 18,573 sq.ft in Korattur Village comprised in Survey No.1040 part. It also states the construction cost is Rs.7,84,47,751/- and the market value is around 10 crores. The election petitioner alleges that the returned candidate has suppressed the sale of an extent of 315 sq.ft out of 18,573 sq.ft on 14.10.2009. The construction cost which was received on a commercial site is now shown as residential. This raises serious issues about the source of funds for construction and requires adjudication.

14.The election petitioner urges that on account of suppressing, misrepresenting, falsifying multiple details, the returned candidate has violated the “Right to Information of a voter” which flows from Article 19(1)(a) of the Constitution of India. He urges that all these defects and material discrepancies are apparent from the materials on record and are substantial. The Returning Officer ought to have rejected the nomination of the returned candidate, but unfortunately he had accepted the same, which has materially affected the result of the election, inviting the wrath of Section 100(1)(d)(i). The election petitioner claims that concealing material information as regards the property transactions

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interferes with the free and fair exercise of electoral rights, as it is deliberate, since the returned candidate had a full and special knowledge of his transactions. It hence, attracts Sections 123(2) and 100(1)(b) of the 1951 Act.

15.As many as seven acts are listed in paragraph No.42 of the petition to indicate how the Form 26 is substantially defective. As there has been non-compliance with Sections 33 and 33A of the 1951 Act and Rule 4A of the Conduct of Election Rules, 1961, the election petitioner asserts it has materially affected the election result and therefore, attracts the wrath of Section 100(1)(d)(iv).

16.This Court took the election petition on file and directed the respondents to file a counter. After a couple of adjournments, the returned candidate filed O.A.No.909 of 2026. This application seeks rejection of the election petition.

17.A reading of O.A.No.909 of 2026 shows that the returned candidate claims the election petition should be rejected as the petition does not disclose any cause of action and lacks material facts or full particulars of the alleged corrupt practice as mandated under Sections 83(1)(a) or 83(1)(b) of the 1951 Act. It states that the alleged errors, suppressions, oversight and miscalculations

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found in Form 26, even if taken on record, would not attract Section 100(1)(b) of the 1951 Act. It states that the election petition pleads no act of the applicant other than suppression, by which the right of any elector was interfered with.

18.The returned candidate adds that the election petitioner himself has not stated that he had been misled by the statement made in Form 26 or that anyone whom he was aware had been so misled at the time of casting his ballot. The affidavit of the returned candidate states that the electors knew they were voting for a well-known actor and certifies himself as a good human being and as someone who had offered a realistic, honest and promising political alternative. The voters were aware that the returned candidate owned properties in and around the State and not a single voter would have exercised their ballot differently if the value of the properties were more or less by a small sum. The affidavit states that the Form-26 is free from any defect and the nomination was properly accepted. The returned candidate having been elected with a whopping margin of 53,715 votes cannot be removed from office on such a flimsy ground. Thereafter, it relies upon several authorities of the Supreme Court and proceeds to state that the election petition suffers from inherent inaccuracies and proceeds upon premises which are nowhere pleaded.

19.It adds that the election petitioner has not produced any proof that he

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is an elector of 12-Perambur Assembly Constituency and mere filing of the Voter ID is insufficient for the same. It claims that in the absence of any averment on the following matters, the election petition is liable to be rejected under Order VII Rule 11(a) of the Code of Civil Procedure. The matters are:

(i)Facts, which if proved, would establish that the returned candidate directly or indirectly interfered or attempted to interfere with free rights of the electors.

(ii)Facts, which if proved, would establish that the nomination paper is liable to be rejected on the ground mentioned under Section 36(2) and that acceptance of the same had materially affected the result of the election.

(iii)The facts, which if proved, materially affected the election on account of the non-compliance with the provisions of the Constitution of India or the 1951 Act or the Rules made thereunder.

20.It claims that the petition is based on vague and unsubstantiated pleadings and if on that basis the election petition proceeds for trial, there is a possibility that the election petitioner would improve his case by adducing evidence beyond his pleadings and therefore, it would be in violation of Section

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86(1) read with Section 81 and Section 100 of the 1951 Act and Order VII Rule 11(a) of the CPC.

21.It adds that the cause of action alleged in paragraph No.50 is illusory and the allegations are general in nature and not supported by evidence. In any event, it is a result of clever and adroit drafting.

22.A counter has been presented, reiterating the averments made in the election petition.

23.Mr.Gopal Shankarnarayanan, after reading the election petition, submitted that this petition is liable to be rejected for the following grounds:-

(i)The election petitioner has not given any details as to whether he is entitled to be on the rolls for No.12 Perambur Assembly Constituency and therefore, it does not satisfy the requirement of Section 81.

(ii)The requirements of Section 100 have not been satisfied.

(iii)Even assuming that there is a suppression, it is minuscule and not substantial.

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24.He argued that material facts to show improper acceptance affected the election had not been made and therefore, there is no cause of action for the election petitioner. He added that even assuming there is a suppression, it does not attract the requirements of Section 123(2) of the 1951 Act. Reading from the affidavit, he pointed out that the overall assets of the returned candidate is Rs.630 crores, of which immovable assets themselves are about Rs.220 crores. He states, unless and until it is admitted that the non-disclosure materially affected the result of the election, the election petition lacks cause of action. He pointed out the discrepancies in Form-26 are nothing but errors and cannot fall under the aspect of suppression.

25.He added discrepancies culled out in the election petition would not tantamount to serious errors. At the time of dealing with the acceptance of nomination, the Court has to look into Section 36(4) of the 1951 Act. The quantum alleged to have been suppressed pales into oblivion to the quantum that has been disclosed by the returned candidate. As the election petitioner did not object at the time of scrutiny, he is not entitled to maintain the election petition.

26.Per contra, Mr.N.C.Ashok Kumar urged that under Section 123(2) of the 1951 Act, undue influence includes any incorrect information, wrong

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information, etc,. Once it attracts Section 123(2), Section 100(1)(b) steps in and there is no necessity to prove that acceptance materially affected the result of the election. He argued it is not open to the returned candidate / applicant in O.A.No.909 of 2026 to urge that suppression of assets and liabilities cannot be treated on par with suppression of criminal antecedents as no such differentiation has been made in law. He argued suppression of assets is equivalent to suppression of criminal cases. He pointed out that the scope of inquiry under Order VII Rule 11 of the Code of Civil Procedure is whether Sections 83(1)(a) and 83(1)(b) apply or not and any argument which calls upon the Court to go beyond the same and probe into the merits of the case is impermissible. He urged that improper acceptance of the returned candidate cannot be treated on par with improper acceptance of other candidates and in such circumstances, it need not be pleaded and proved that improper acceptance of nomination materially affected the result of the election.

27.Finally, he pointed out that failure to object at the time of scrutiny under Section 36(2) is not fatal. An election petition can still be maintained.

28.In response, Mr.Gopal Shankarnarayanan submitted that incompleteness does not attract corrupt practice and the judgments relied upon by the election petitioner are confined to cases where criminal antecedents are

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suppressed. As the election petitioner has not pleaded suppression of the materials that interfered with the free exercise of the right of the voters, the election petition deserves to be rejected.

29.In support of his submissions, Mr.Gopal Shankarnarayanan circulated the following authorities:-

(i)***Ajmera Shyam Vs. Kova Laxmi, (2026) 3 SCC 373***;
(ii)***Karikho Kri Vs. Nuney Tayang, (2024) 15 SCC 112***;
(iii)***Karim Uddin Barbhuiya Vs. Aminul Haque Laskar, (2025) 11 SCC 470***;
(iv)***Azhar Hussain Vs. Rajiv Gandhi, 1986 Supp SCC 315***;
(v)***Kanimozhi Karunanidhi Vs. A.Santhana Kumar, (2024) 18 SCC 592***;
(vi)***Samant N.Balkrishna Vs. George Fernandez, (1969) 3 SCC 238***;
(vii)***Hari Shanker Jain Vs. Sonia Gandhi, (2001) 8 SCC 233***;
(viii)***C.P.John Vs. Babu M.Palissery, (2014) 10 SCC 547***;
(ix)***Shambhu Prasad Sharma Vs. Charandas Mahant, (2012) 11 SCC 390***;
(x)***Madiraju Venkata Ramana Raju Vs. Peddireddigari Ramachandra Reddy, (2018) 14 SCC 1***;

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(xi)***Regu Mahesh Vs. Rajendra Pratap Bhanj Dev, (2004) 1 SCC 46***;

(xii)***Mangani Lal Mandal Vs. Bishnu Deo Bhandari, (2012) 3 SCC 314***;

(xiii)***Resurgence India Vs. Election Commission of India, (2014) 14 SCC 189***;

(xiv)***Jyoti Basu Vs. Debi Ghosal, (1982) 1 SCC 691***;

(xv)***Michael B.Fernandes Vs. C.K.Jaffer Sharief, (2002) 3 SCC 521***;

(xvi)***B.Sundara Rami Reddy Vs. Election Commission of India, 1991 Supp (2) SCC 624***;

(xvii)***Ram Sukh Vs. Dinesh Aggarwal, (2009) 10 SCC 541***;

(xviii)***K.Prakasam Vs. Chief Election Commissioner, E.L.P.No.37 of 2026,*** dated ***10.07.2026***;

(xix)***C.Geetha Vs. Dr.N.Elaiyaraja, E.L.P.No.45 of 2026, 2026:MHC:3384 on 18.08.2026***;

(xx)***S.M.Anthony Muthu Vs. Tharahai Cuthbert, E.L.P.No.44 of 2026, 2026:MHC:3319, on 11.08.2026***;

(xxi)***V.Ramu Vs. Duraimurugan, E.L.P.No.4 of 2021*** dated ***07.07.2026***;

(xxii)***T.T.V.Dhinakaran Vs. M.L.Ravi, O.A.No.393 of 2018 in E.L.P.No.1 of 2018*** dated ***20.06.2018***;

(xxiii)***R.Sakkarapani Vs. K.Karuppasamy, O.A.Nos.1052 & 1053 of 2017 in E.L.P.No.13 of 2016, MANU/TN/2481/2018,*** dated ***05.06.2018***;

(xxiv)***T.R.Baalu Vs. S.Purushothaman, 2005 SCC***

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(xxv)***R.P.Moidutty Vs. P.T.Kunju Mohammad, (2000) 1 SCC 481***;

(xxvi)***A.Krishnan Vs. T.P.R.Selvame, E.L.P.No.12 of 2016, MANU/TN/0049/2018, dated 05.01.2018***;

(xxvii)***V.Ramu Vs. Duraimurugan, E.L.P.No.4 of 2021*** dated ***07.07.2026***;

(xxviii)***S.Jayakumar Vs. Thoppu Venkatachalam @ N.D.Venkatachalam & others, O.A.Nos.829 & 830 of 2026 in E.L.P.No.43 of 2026*** dated ***08.09.2026***;

(xxix)***R.Seenivasa Sethupathi Vs. K.R.Periyakaruppan & others, O.A.No.915 of 2026 in E.L.P.No.34 of 2026*** dated ***28.09.2026***;

(xxx)***S.Regupathy Vs. C.Chinthamani & others, O.A.Nos.917 & 918 of 2026 in E.L.P.No.33 of 2026 dated 30.09.2026***.

30.In support of his submissions, Mr.N.C.Ashok Kumar has submitted the following authorities:-

(i)***Harkirat Singh Vs. Amrinder Singh, (2005) 13 SCC 511***;

(ii)***D.Ramachandran Vs. R.V.Janakiraman and others, (1999) 3 SCC 267***;

(iii)***V.S.Achuthananthan Vs. P.J.Francis, (1999) 3 SCC 737***;

(iv)***Madiraju Venkata Ramana Raju Vs. Peddireddigari Ramachandra Reddy, (2018) 14***

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SCC 1;

(v)***Virender Nath Gautam Vs. Satpal Singh and others, (2007) 3 SCC 617***;

(vi)***Ashwani Kumar Sharma Vs. Yaduvanesh Singh and others, (1998) 1 SCC 416***;

(vii)***Roop Lal Sathi Vs. Nachhattar Singh Gill, (1982) 3 SCC 487***;

(viii)***Ashraf Kokkur Vs. K.V.Abdul Khader and others, (2015) 1 SCC 129***;

(ix)***Mohan Rawale Vs. Damodar Tatyaba Alias Dadasaheb and others, (1994) 2 SCC 392***;

(x)***Ajay Arjun Singh Vs. Sharadendu Tiwari and others, (2016) 15 SCC 219***;

(xi)***Joseph John Peter Sandy Vs. Veronica Thomas Rajkumar and another, (2013) 3 SCC 801***;

(xii)***Kisan Shankar Kathore Vs. Arun Dattatray Sawant, (2014) 14 SCC 162***;

(xiii)***Lok Prahari Vs. Union of India, (2018) 4 SCC 699***;

(xiv)***Resurgence India Vs. Election Commission of India, (2014) 14 SCC 189***;

(xv)***Union of India Vs. Association for Democratic Reforms, (2002) 5 SCC 294***;

(xvi)***Shaligram Shrivastava Vs. Naresh Singh Patel, (2003) 2 SCC 176***;

(xvii)***Vashist Narain Sharma Vs. Dev Chandra, (1954) 2 SCC 32***;

(xviii)***Arjun Panditrao Khotkar Vs. Kailash***

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Kushanrao Gorantyal, (2020) 7 SCC 1;

(xix)***Mairembam Prithviraj Vs. Pukhrem Sharatchandra Singh, (2017) 2 SCC 487***;

(xx)***Poonam Vs. Dule Singh, (2026) 3 SCC 732***;

(xxi)***Krishnamoorthy Vs. Sivakumar and others, (2015) 3 SCC 467***;

(xxii)***S.Rukmini Madegowda Vs. State Election Commission and other, (2022) 18 SCC 1***;

(xxiii)***Krishnamoorthy Vs. Sivakumar and others, (2009) 3 CTC 446***.

31.I have carefully considered the submissions of both sides. I have gone through the records in detail.

32.Under Section 86(1) of the 1951 Act, the High Court is duty bound to dismiss the election petition when it suffers from non-compliance of three provisions, namely, Sections 81, 82 and 117 of the 1951 Act. If a petition fails to comply with any one of these provisions, the Court is left with no option but the petition would have to be dismissed. This is on account of the fact that Section 86(1) reads mandatorily in character.

33.Section 81 deals with

(i) Presentation,
(ii) Entitlement to present a petition or

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(iii) Material compliance essential for statutory requirement of attested copies.

Section 82 deals with who are the necessary parties to an election petition. The Supreme Court in ***Jyoti Basu Vs. Debi Ghosal, (1982) 1 SCC 691*** has stated that the principles that govern suits in the Code of Civil Procedure will be applicable to election petitions "as far as may be" and subject to the 1951 Act and the Rules made thereunder. [See, Section 87(1) of the 1951 Act]. The election petitioner should implead all those who are necessary as dictated by the Act. Section 117 deals with deposit of the prescribed security amount for costs at the time of presenting the petition. Failure to comply with these Sections leads to dismissal of the petition as mandated by Section 86 of the 1951 Act.

34.It is pertinent to point out here that Section 83 of the 1951 Act has not been included in Section 86. So every defect in the contents of the petition or the accompanying affidavit does not demand that this Court order dismissal. This Court should keep in mind the curable defects and absence of essential materials as dictated under Section 86. A reading of the rejection of application shows that the applicant has not predicated on any of the grounds attracting non-compliance with Sections 81, 82 and 117 of the 1951 Act. Section 87 of the 1951 Act states the election petition read with Order VII Rule 11 of the Code of

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Civil Procedure can be rejected when it does not disclose a cause of action. Therefore, the Code of Civil Procedure applies to election petition insofar as it is consistent with the 1951 Act and the Rules made thereunder.

35.Section 83(1)(a) of the 1951 Act states that an election petition must plead material facts on which the petitioner relies. The Supreme Court in ***L.R.Shivaramagowda and others Vs. T.M.Chandrasekar (dead) by LRs and others, (1999) 1 SCC 666***, has distinguished between "**material facts**" and "**material particulars**". Material facts are those facts which constitute the statutory ground of challenge. Failure to plead material facts is fatal to the election petition. Material particulars are those supporting averments / details to the material facts which explain and amplify them. Under certain circumstances, while material particulars can be introduced beyond the period of limitation, material facts cannot be considered at all.

36.As to how a petition for rejection of election petition has to be considered has been settled by the Supreme Court in ***D.Ramachandran Vs. R.V.Janakiraman and others, (1999) 3 SCC 267***. The Court held that an election petition must be read as a whole. If the allegations that have been set forth therein, if established, would invalidate the election, then the petition cannot be rejected on the grounds of not disclosing any cause of action. It

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further directed a Court cannot dissect the petition into different parts like a frog in the biology lab and reject the election petition on the ground that some parts / items are insufficient.

37.It is a settled position of law that partial rejection of election petition is as impermissible as partial rejection of a plaint. This view has been recently confirmed in ***Bhim Rao Baswanth Rao Patil Vs. K.Madan Mohan Rao and others, 2023 INSC 641***. [Also see, ***Madiraju Venkata Ramana Raju Vs. Peddireddigari Ramachandra Reddy, (2018) 14 SCC 1***].

38.I have already set forth the pleadings in gist. The averments in the election petition being a plea in demurrer, I have to take the averments made in the petition to be true and thereafter, come to the conclusion whether it discloses a cause of action or not.

39.Paragraph Nos.7 and 42(i) of the petition shows that though the returned candidate had acquired property at Banruti Village, Sriperumbudur Taluk, Kanchipuram District, he had not disclosed the same in Form 26 affidavit. The value of the property is said to be around Rs.30 crores. Being a petition for rejection of plaint, I have to take this averment as admitted and thereafter see, whether a cause of action has been made out or not. Furthermore,

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insofar as the Mylapore property is concerned, there has been a suppression of the construction agreement and the sale consideration that had been paid to M/s.Appasamy Real Estate.

40.Likewise, insofar as the Padi property is concerned, atleast two months before the election, the returned candidate had sold the property on 12.02.2026, for a sum of Rs.35 crores to M/s.Olive Foundation. This sale and receipt of Rs.35 crores had also been suppressed in Form 26. Yet another point of consideration that has been pointed out by the election petitioner is the sale of a portion of the property at Korattur, though the returned candidate remains the owner for the remaining portions.

41.Non disclosure, suppression and misrepresentation violate Section 33A of the 1951 Act. Such a violation has been held to be a corrupt practice under Section 100(1)(b) of the 1951 Act and consequently, attracts Section 123(2) of the 1951 Act. When an election is challenged on the ground of Section 100(1)(b), the requirement that it had materially affected the election need not be proved. It is only for grounds under Section 100(1)(d) that the election petition would have to substantiate that the violation materially affected the election.

42.What is the scope of inquiry at the time of rejection of an election

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petition? The test, as pointed out in ***D.Ramachandran***'s case (cited *supra*), is whether any of the reliefs prayed for can be granted, if the facts stated in the petition are proved to be true during trial.

43.Is suppression of assets equivalent to suppression of criminal cases? If one were to trace the purpose of Form 26, this Court is able to notice that it had been brought into law on account of the nudge of the Supreme Court. The Supreme Court had called upon disclosure by way of an affidavit, as it is essential to the voters right to know. The Supreme Court had recognised that such disclosure of assets and criminal antecedents is essential to voters under Article 19(1)(a) of the Constitution of India.

44.In ***Lok Prahari Vs. Union of India and others, (2018) 4 SCC 699***, this very issue arose for consideration. In paragraph Nos.80 and 81 of SCC reports, the Supreme Court pointed out whatever applies to suppression of criminal antecedents applies to suppression of assets also. This view was earlier laid down in ***Kisan Shankar Kathore Vs. Arun Dattatray Sawant, (2014) 14 SCC 162*** (paragraph Nos.39 to 43 of SCC reports), wherein the Supreme Court declared if an asset suppression is substantial, it would lead to the election being set aside.

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45.As I am at the stage of rejection of plaint, I will refer to the recent judgment of the Supreme Court in ***Kimneo Haokip Hangshing Vs. Kenn Raikhan and others, 2024 INSC 689***. The appellant won the 46-Saikul Assembly Constituency as a Bharatiya Janata Party (BJP) candidate in the 2022 Manipur Legislative Assembly election. The election petitioner / respondent before the Supreme Court was a rival contesting candidate. The respondent filed an election petition stating that the returned candidate did not disclose an investment of approximately Rs.2 crores that has been used for developing agricultural lands and had further declared 'zero' income, despite being gainfully employed. On service of the election petition, the returned candidate filed an application for rejection of the same. He urged on more or less the same grounds as urged by Mr.Gopal Shankarnarayanan that the election petition failed to comply with Section 83 of the 1951 Act, as it did not disclose full particulars of corrupt practices and consequently, it should be rejected. The High Court of Manipur did not agree to the plea and dismissed the petition under Order VII Rule 11 of Code of Civil Procedure. Aggrieved by the same, the matter was taken to the Supreme Court.

46.The Supreme Court pointed out that rejection of plaint is permissible only if the election petitioner fails to state the clear cause of action. If there are factual disclosures that require a probe during the time of trial, the Court should

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not apply Order VII Rule 11 and reject the election petition at the very threshold. More importantly, it pointed out when the petition reads that there has been a concealment of Rs.2 crores on real estate investment and falsification of declared income, it would be sufficient to maintain the petition. Whether these averments made in the election petition are true or not cannot be determined summarily and that the election petitioner would have to undergo the process of trial.

47.This judgment is a direct authority for the proposition that voters have a fundamental right to know the candidate's assets and allegation of suppression of wealth must be investigated at the time of trial, rather than the election petition being rejected in limine.

48.Mr.Gopal Shankarnarayanan is correct that the Supreme Court in ***Karikho Kri Vs. Nuney Tayang and another, 2024 INSC 289***, held that every omission in Form 26 does not automatically invalidate an election. However, it was a judgment which was delivered after the election petition had undergone a full process of trial. It was not dismissed at the stage of rejection of election petition. It was a case which dealt with the 2019 Arunachal Pradesh Legislative Assembly election. The appellant before the Supreme Court, Karikho Kri, stood as an independent candidate. He won from No.44 Tezu (ST) Assembly

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Constituency. The result of this election was challenged by the respondent, a candidate of the Indian National Congress (INC). It was alleged by Nuney Tayang that the returned candidate had filed an improper Form 26 by deliberately concealing the following:

(i) Three motor vehicles registered in the name of his wife and son.
(ii) Suppressed public dues with respect to municipality and property taxes.
(iii) Non-submission of "No Dues Certificate" for Government accommodation occupied between 2009 and 2014.

49.The Itanagar Bench of Gauhati High Court agreed with the election petitioner's submission and declared the election void, holding that the failure to state the aforesaid facts amount to corrupt practice and it is a substantial defect under Section 100 of the 1951 Act. Aggrieved by the same, the appeal to the Supreme Court.

50.The Supreme Court reversed the High Court's finding and held that under Section 36(4) of the 1951 Act, the Returning Officer can reject only a nomination if the defect is substantial. Not every omission or error automatically invalidates a nomination. A case-by-case evaluation is mandatory to determine whether the non disclosure has affected the right to know of the voter. Factually, the Court came to the conclusion that the three vehicles details,

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which were alleged to be suppressed, were no longer in the possession and control of the candidate or his family members. As regards the dues of municipal / property taxes, the Court concluded that it cannot be considered as non-disclosure as he disclosed the particulars of such dues in one part of his affidavit but not in another part. Insofar as the government dues are concerned, it came to a conclusion that the dues had been settled and failure to present a certificate did not constitute a defect when no debt was actually owed to the State.

51.The crucial aspect is, the Court had pointed out while a candidate need not given his realistic details of his assets, assets that are of high value must be disclosed. It pointed out that Courts must distinguish between a deliberate concealment of wealth, which amounts to corrupt practice, as against minor defects due to oversight. As pointed out earlier, this was a judgment pronounced after full trial and all the records were before the Court in order to come to a conclusion that the information, which were allegedly not disclosed, were not substantial in nature.

52.Whether a suppression is substantial or not can be found out only after full trial and not at the threshold itself.

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53.It is also correct, as submitted by Mr.Gopal Shankarnarayanan, that in ***Ajmera Shyam Vs. Kova Laxmi and others, (2026) 3 SCC 373***, the Supreme Court did distinguish between disclosure of criminal antecedents and disclosure of assets under Form 26. It was pointed out that disclosure of criminal antecedents require a strict approach and when it comes to asset related suppressions, the Court must test the same on the substantiality.

54.***Ajmera Shyam'***s case was a situation where the returned candidate had disclosed her assets and source of income. She had only omitted to state certain information regarding income tax paid in the past. Therefore, the Court came to a conclusion that failure to disclose the past income tax returns would not invalidate the election.

55.A careful reading of paragraph Nos.104, 107 and 108 (SCC reports) would show that the Court did not overrule the earlier judgments of the Supreme Court in ***Kisan Shankar Kathore Vs. Arun Dattatray Sawant, (2014) 14 SCC 162*** and ***Lok Prahari Vs. Union of India, (2018) 4 SCC 699***. On the contrary, the Court held that the application of the principles evolved in those judgments would have to be used to see whether the financial omission is substantial or not.

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56.At this stage, I would refer to the judgment of this Court in ***Krishnamoorthy Vs. Sivakumar and others, 2009 SCC OnLine Mad 933***. That case arose on account of an election held to the Thekampatti Panchayat in Coimbatore District. The election was held in the year 2006. The elections was challenged by one Sivakumar on the sole ground that the returned candidate, Krishnamoorthy has filed a false declaration, suppressing details of the criminal cases pending against him. He argued that this suppression should lead to the rejection of the nomination by the Returning Officer. The Election Tribunal Cum Principal District Judge agreed with the averment and allowed the election petition. He declared the returned candidate's election as null and void and ordered a fresh election. Aggrieved by the same, the returned candidate preferred a revision before the High Court, invoking Article 227 of the Constitution of India. The Hon'ble Mr.Justice V.Ramasubramanian (as he then was) framed a specific issue as to whether failure of the petitioner to disclose multiple charge sheets amount to suppression of material information affecting the election result.

57.The learned Judge came to a conclusion that false or incomplete information interferes with the voters' free exercise of electoral rights and amounts to "undue influence" and thereby, constitute a corrupt practice. Having come to this conclusion, the learned Judge held the election was vitiated.

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Aggrieved by the same, the returned candidate preferred an appeal to the Supreme Court. This judgment is reported in ***(2015) 3 SCC 467***.

58.The Supreme Court agreed with the High Court and held that failure to disclose pending cases, involving heinous or serious offences or offences of corruption or moral turpitude, constitute a corrupt practice of "undue influence" within the meaning of Section 123(2) of the 1951 Act and Section 260 of the Tamil Nadu Panchayats Act, 1994. Referring to the judgments in ***Union of India Vs. Association for Democratic Reforms, (2002) 5 SCC 294*** and ***People's Union for Civil Liberties (PUCL) Vs. Union of India, (2003) 4 SCC 399***, the Court affirmed that Article 19(1)(a) of the Constitution of India guarantees the voters the right to know the candidate's background. Suppressing information misleads the voters and interferes with the free exercise of electoral choice. Such an act renders the returned candidate's election to be declared as void.

59.An analysis of these laws shows that the Supreme Court has not held that suppression of criminal cases does not pass muster, while suppression of assets does not attract Section 123(2) of the 1951 Act.

60.As pointed out earlier, ***Ajmera Shyam***'s case has not overruled the

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position of law that has been laid down by the Supreme Court earlier. In fact, it has tacitly approved the decisions. Whether the suppression of the Banruti property, suppression of sale and generation of Rs.35 crores in Padi and part sale in Korattur, suppression of land area and construction extent in T.Nagar and suppression of construction agreement in Mylapore are substantial or not can be gone into only after trial. As these averments have been clearly stated in the election petition, I am not in a position to hold that there is no cause of action. I conclude that this application for rejection of election petition should be dismissed.

61.In fine, **O.A.No.909 of 2026 is dismissed**. The parties shall bear their respective costs.

27.11.2026

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Index : Yes / No
Neutral Citation : Yes / No
Internet : Yes
Speaking/Non-speaking order

To

1.The Returning Officer,
12-Perambur Assembly Constituency,
Office of the Returning Officer, Perambur, Chennai, Tamil Nadu.

2.The Election Commission of India,
Nirvachan Sadan, Ashoka Road, New Delhi – 110 001.

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V.LAKSHMINARAYANAN J.

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Original Application No.909 of 2026
in ELP.No.50 of 2026

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