

Dr. E. Subaya @ Esakki Subaya vs Kanthimathinathan on 1 October, 2026

OA No. 866 of 2026 in ELP No. 2 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-09-2026

DELIVERED ON:01-10-2026

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

OA No. 866 of 2026 in ELP No. 2 of 2026

Dr. E. Subaya @ Esakki Subaya
S/o . S. Esakki pandian, No. 31-70, Utchi
Makaliyamman Kovil Street, Prancheri,
Gopalamudram, Cheranmahadevi,
Tirunelveli - 627 451.

Applicant

Vs

1. Kanthimathinathan
S/o.Sankaranarayanan, No.19H, High
School Road, Ambasamudram, Tirunelveli
- 627 401

2.V.P.Durai
S/o.Vel Durai,
Door No.2/274,
Kallankulam,
Thiruviruthaanpulli 627 414.

3.S.Rajagopal
S/o K.Sankaran,
Door No.E33, 5th Cross Street,
TVS Nagar, Palayamkottai-627 011.

1/30

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

OA No. 866 of 2026 in ELP No. 2 of 2026

4. V.Siva Sankaran,
S/o P.Vellaichamy,
Permanent Address Door No.3-91,

Avichipatty Village, Natham-624 401.
Present Address No.118-C,
Indira Nagar, Sendurai Salai,
Natham-624 401.

5. R.Isaikannan
S/o Rajendiran,
Door No.19, Therkku Colony Nadu Theru,
Oorkaadu-627 416.

6. The Returning Officer,
No.225 Ambasamudram Assembly
Constituency,
(Revenue Divisional Officer,
Ambasamudram), Tirunelveli District.

Respondents

Application filed under Order XIV Rule 8 of Original Side Rules read with [Order VII Rule 11 of the Code of Civil Procedure](#), 1908 read with [Sections 81](#), 83, 86 and 87 of the [Representation of the People Act, 1951](#) to reject the Election Petition No.2 of 2026 pending on the file of this Court.

For Applicant:	Mr.Satish Parasaran Senior Counsel
For Respondents	For Mr.P.J.Rishikesh Mr.R.Viduthalai Senior Counsel For Ms.R.Revathy Arya Rajinikanth Ahilan and Daniel For R.1

2/30

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

OA No. 866 of 2026 in ELP No. 2 of 2026

ORDER

This original application has been taken out by the first respondent/the elected candidate invoking [Order VII Rule 11 of the Code of Civil Procedure](#) to reject the Election Petition No.2 of 2026.

2. I have heard Mr.Satish Parasaran, learned Senior Counsel for Mr.P.J.Rishikesh, learned counsel for the applicant and Mr.R.Viduthalai, learned Senior Counsel for Ms.R.Revathy, learned counsel the first respondent/election petitioner.

3. The submissions of Mr.Satish Parasaran, learned Senior Counsel are as follows:-

(i) The applicant was duly elected from 225-Ambasamudram Legislative Assembly Constituency, State of Tamil Nadu in the General Elections held on 23.04.2026. Though the applicant contested as a nominee of AIADMK party and he secured 65,589 votes, the highest number of votes amongst all candidates who stood for election and was declared as the successful candidate with a clear margin of over 10,000 votes over the runner up candidate. The applicant however subsequently resigned from 3/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 the office of MLA of

Ambasanudram Constituency on 26.05.2026. The said resignation was accepted by the Speaker of the Tamil Nadu Legislative Assembly. However, the matter is now subjudice in WP No.23085 of 2026.

(ii) The Election Petition does not disclose any cause of action and is clearly barred by law, being bereft of material facts and material particulars which are required to be stated under [Section 83\(1\)](#) of Representation of the People Act, 1951 (hereinafter referred to as “[R.P Act](#)”) According to the learned Senior Counsel, the election petitioner has invoked [Sections 100 \(1\)\(b\), 100\(1\)\(c\), 100\(1\)\(d\)\(i\) and 100 \(1\)\(d\)\(iv\)](#) of R.P.Act without any substance and the allegations made are also as vague as vagueness could be. According to the learned Senior Counsel, when the election petitioner alleges corrupt practices under [Section 123](#) of R.P.Act, then, the proceedings assume the character of being quasi-criminal in nature and therefore, the test of strict and precise pleadings becomes relevant and mandatory. Taking me through the various allegations made in the Election Petition, Mr.Satish Parasaran would contend that the election petitioner has relied on alleged Model Cheques, being an assurance to the voters subject to the applicant being successfully elected at the election. Drawing a distinction between “bribery” under [Section 123](#) of R.P.Act, the learned Senior Counsel would state that the Model Cheques even assuming had been distributed or issued at the instance of the first 4/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 respondent or his Agents, it would not constitute bribery and at best, it is a promise made in the political manifesto, at the time of campaigning. Therefore, it is his submission that it cannot be brought under corrupt practice or gratification under [Section 123\(1\)](#) of R.P.Act. Learned Senior Counsel would further state that mere mentioning of the name of one Prabhakara Pandian in the election petition is bald and uncorroborated and consequently, the pleading is rendered legally dead.

(iii) With regard to the allegations pertaining to distribution of Green and Orange pamphlets at Booth No.448, it is the contention of Mr.Satish Parasaran that such distribution at Booth No.448 is on the face of the allegation practically impossible and fallacious, since the total number of polling booths within the Ambasanudram Legislative Assembly Constituency were de-limited from Booth No.1 to Booth No.321 alone. In any event, it is his further submission that the pamphlets were only bonafide campaign literature distributed for the sole purpose of informing the voters about the name of the candidate, the party symbol and the date of polling and therefore, learned Senior Counsel submits that the distribution of such pamphlets cannot be characterised as corrupt practices.

(iv) Even as regards the allegations pertaining to the Flying Squad FIRs and 5/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 the allegation of Seizure of a cash amount of Rs.900/-, tokens and materials by the Election Flying Squad, Mr.Satish Parasaran, learned Senior Counsel contends that when the returned candidate has not been named as an accused in any of the FIRs, there is absolutely no nexus to implicate him and mere fact that the seized tokens carried the party symbol of the first respondent cannot link the returned candidate to an act of bribery.

(v) As regards improper rejection of Nomination Papers of 32 independent candidates, Mr.Satish Parasaran, learned Senior Counsel contends that when none of the said 32 rejected candidates themselves have been aggrieved by the rejection of their nominations, it is not open to the petitioner to challenge the scrutiny made by the Returning Officer and in any event, according to Mr.Satish Parasaran, such allegations do not in any manner materially affect the outcome of the election under [Section 100\(1\)](#).

(d)(i) of R.P.Act.

(vi) As Regards the allegations regarding Form 26 Disclosures and discrepancies between the Form 26 affidavits filed by the first respondent in the earlier elections of the years 2019 and 2021 and present year 2026 election, a specific reference to his wife's gold jewellery, Mr.Satish Parasaran states that when no objection was 6/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 raised regarding the disclosures made with regard to the said jewellery in 2019 and 2021, that cannot afford a ground for the election petitioner to challenge the election of the year 2026. In any event, it is the submission of the learned Senior Counsel that the first respondent has not suppressed any quantity and the value also reflects the prevailing market rate in 2026, which by no stretch of imagination can be the same as in the year 2019 or 2021.

(vii) Even with regard to immovable properties not being accurately disclosed, it is the submission of Mr.Satish Parasaran, learned Senior Counsel that the first respondent's wife has sold certain portion of her property between 2021 and 2025 and all such transactions have been duly reflected in the relevant income tax returns and therefore what remained in her ownership in 2026 alone being mentioned cannot amount to concealment or suppression.

(viii) As regards the allegations made in the election petition at Paragraph Nos.33 and 34 regarding particular item of immovable property comprised in Survey No.21, Door No.21, Soundarapandian Street, Ashok Nagar, Mr.Satish Parasaran contends that the said property consists of front portion and rear portion and at the time of the nomination made for 2019 general election, only the rear portion stood in the name of 7/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 the first respondent and therefore, the Form 26 filed in the year 2019 election disclosed only the rear portion, however, subsequently, in and by registered Settlement Deed dated 19.03.2020 the front portion was settled in favour of the first respondent by his father and in all fairness, in the present election affidavit (Form -26), the first respondent has included the front portion as well. In short, it is the submission of Mr.Satish Parasaran that the first respondent has made a complete and transparent disclosure in the

latest Form 26 for the election held in 2026 and discrepancies in the affidavits filed in 2019 and 2021 cannot form the basis of pointing fingers of the first respondent alleging that there has been improper disclosure, suppression etc.,

(ix) It is the further submission of the learned Senior Counsel that the election petitioner is only a voter/elector and when none of the contesting candidates have come forward to challenge the election, the present election petition is clearly a collusive design with ulterior motives and especially when the election petition does not satisfy the mandatory requirements of [Sections 81, 83, 86 and 100](#) of R.P.Act, no triable issues arise for consideration and consequently, the first respondent, the successful returned candidate, cannot be subjected to a vexatious trial.

(x) In conclusion, it is the submission of Mr.Satish Parasaran, learned Senior 8/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 Counsel that the entire election petition does not contain any averment indicting the petitioner with any direct or indirect inducement, gratification or exchange of valuable consideration; no direct nexus establishing mens rea or corrupt intent or consent and authorisation of the first respondent or even his election Agent and no specific particulars pleaded with regard to the precise time, date, place or named individuals involved and in such circumstances, the election petition containing unsubstantiated, vague, broad and sweeping allegations need not be put to trial. In support of his submissions, the learned Senior Counsel relied on the following decisions:

(i) [Samant N.Balakrishna and another vs George Fernandez and others](#), reported in 1969 3 SCC 238

(ii) [Kanimozhi Karunanidhi vs A.Santhana Kumar & Others](#), reported in (2024 18 SCC 592)

(iii) The Order of this Court in [Ashok Kumar.K vs T.Senguttuvan](#) in ELP No.9 of 2021

(iv) [S.Subramaniam Balaji vs State of Tamil Nadu and Others](#), reported in (2013) 9 SCC 659 9/30

<https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 and the recent orders passed by this Court rejecting election petitions in ELP Nos.43 and 47 of 2026.

Learned Senior counsel would therefore pray for the application being allowed.

4. The submissions of Mr.R.Viduthalai, learned Senior Counsel are as follows:

(i) Mr.R.Viduthalai, learned Senior Counsel appearing for the election petitioner/first respondent in the present application, would state that the proviso to [Section 86](#) of R.P.Act, 1951 enables the dismissal of an election petition at the threshold only when it does not comply with the provisions of [Sections 81, 82 and 117](#) of R.P.Act.

When non-compliance of these provisions does not form the basis of the application for rejection of the election petition, then, the present application under Order VII Rule 11 of Civil Procedure Code seeking to reject the election petition referring to [Section 100](#) of R.P.Act cannot be entertained.

(ii) . Mr.R.Viduthalai, learned Senior Counsel submits that the election petition has been presented within 45 days from the date of declaration of the results and 10/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 all contesting candidates have been rightly impleaded and provisions of Sub [Section 3](#) of [Section 81](#) have also been complied with. Even sofar as [Section 82](#) of R.P.Act, it is the submission of the learned Senior Counsel that the mandate of [Section 82](#) of R.P.Act has also has been complied with, by impleading all the necessary parties including the Agents of the returned candidate and other persons who have indulged in corrupt practice with the consent of the applicant.

(iii) As regards [Section 117](#) of R.P.Act, Mr.R.Viduthalai, learned Senior Counsel points out that the necessary deposit of security for costs has also been fully complied with and therefore, none of the limbs of [Section 86](#) of R.P.Act are available to be invoked in order to seek rejection of the election petition.

(iv) Mr.R.Viduthalai, learned Senior Counsel would further state that the arguments of the learned Senior Counsel, Mr.Satish Parasaran that the election petition is bereft of material facts and material pleadings is fallacious and on the contrary, the election petition clearly discloses a definite cause of action, right from the improper rejection of the nominations by the Returning Officer, including various corrupt practices of bribery and exercise of undue influence by the applicant and his agents, leading upto the election itself on 23.04.2026 and consequently the results being 11/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 declared on 04.05.2026.

(v) Mr.Viduthalai, learned Senior Counsel would further state that in the election petition, the first respondent is only required to lay the foundation for the challenge of the election and proof of the allegations of the foundation laid in the election petition can be adduced only at the time of trial. He would therefore state that the application under Order VII Rule 11 of Civil Procedure Code is clearly premature and in this regard, learned Senior Counsel also takes me through the various averments in the election petition with regard to the specific allegations which if proved or established at trial, would certainly result in the election petition being allowed. In support of his submissions, learned Senior Counsel relied on the following decisions:-

(i) [Balwan Singh vs Lakshmi Narain and Others](#), reported in 1960 SCC Online SC 281

(ii) [F.A.Sapa and Others vs Singora and Others](#), reported in (1991 SCC Online Sc 189)

(iii) [V.S.Achuthanandan vs P.J.Francis and Another](#), reported in 12/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 1999 SCC Online SC 321

(iv) [Madiraju Venkata Ramana Raju vs Peddireddigari Ramachandra Reddy and Others](#) (2018 SCC Online SC 258)

(v) [Thangjam Arunkumar vs Yimkham Erabot Singh & Others](#), reported in 2023 17 SCC 500

(vi) [Kimneo Haokip Hangshing vs Kenn Raikhan & Others](#) reported in 2024 SCC Online SC 2548.

5. I have carefully considered the submissions advanced by the learned Senior Counsel on either side.

6. I am conscious of the fact that an application, seeking rejection of the election petition under Order VII Rule 11 of Civil Procedure Code can be successfully invoked when the election petition does not disclose a cause of action or when the election petition appears from the statement in the petition to be barred by any law. The other limbs of Order VII Rule 11 of Civil Procedure Code pertaining to court fees etc., will not apply to the facts on hand.

13/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026

7. I am also equally conscious of the fact that while testing an application under Order VII Rule 11 of Civil Procedure Code, this Court can go only by the averments and allegations made in the election petition and the documents that have been filed in support of the election petition. The averments and allegations that have been set out in the other pleadings which are at the instance of the defendants/respondents or the applicant seeking rejection of the petition or any other extraneous documents that are relied on in the application for rejection of the petition and not forming part of the election petition, cannot be gone into. In short, on a reading of the election petition and on a consideration of the documents filed in support of the same alone, the Court must be able to come to a conclusion that the election petition deserves to be rejected under Order VII Rule 11 of Civil Procedure Code. The law on this point is too well settled by now.

8. Insofar as [Section 81](#) of R.P.Act, it deals with presentation of election petitions and enables the election petition to be presented on one or more grounds specified in subsection (1) of [Section 100](#) and [Section 101](#) within forty five (45) 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 the dates of their election are 14/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 different, the later of those two dates.

9. Sub Section (3) of [Section 81](#) of R.P.Act requires an election petition to accompany as many copies thereof as there are respondents mentioned in the election petition and every such copy is required to be attested by the petitioner under his own signature to be a true copy of the petitioner.

10. There is no complaint of the applicant that there has been a violation of the requirement of [Section 81](#) of R.P.Act.

11. [Section 82](#) requires the election petitioner to join as respondents in the election petition, all the contesting candidates and the returned candidates subject to the relief sought for and any other candidate against whom allegations of any corrupt practice is made in the petition. On going through the election petition, I do not see any violation of [Section 82](#) of R.P.Act requiring dismissal of the election petition at the threshold.

12. Coming to the provisions of the R.P.Act, 1951, [Section 83](#) of the R.P.Act 15/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 relates to the contents of an election petition. An election petition should contain a concise statement of material facts on which the election petitioner relies and shall set forth full particulars of alleged corrupt practices, including a full 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. Such an election petition has to be signed by the petitioner and verified in the manner [laid down in the Code of Civil Procedure](#), 1908 for the purposes of verification of pleadings. The proviso to [Section 83](#) of R.P.Act states that when the petitioner alleges any corrupt practice, then, the election petition shall be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

13. Sub Section (2) of [Section 83](#) of R.P.Act requires schedules and annexures to the election petition to also be signed by the petitioner and verified in the same manner as the election petition itself.

14. Admittedly, in the present case there is no grievance of the applicant that the election petitioner has violated the requirements of the mandate of [Section 83](#) of R.P.Act. In fact, the Hon'ble Supreme Court in [C.P.John vs Babu M.Palissery](#), reported in (2014) 5 SCC 547, has held that if any defects are pointed out with regard to the 16/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 mandatory requirement of [Section 83](#) of R.P.Act and despite an opportunity being given to the election petitioner and such defects are not rectified, then, the election petition is liable to be rejected in limine.

15. [Section 86\(i\)](#) of the R.P.Act empowers the High Court to dismiss an election petition which does not comply with the provisions of [Section 81](#) or [Section 82](#) or [Section 117](#). Again, it is not the case of the applicant that there has been non-compliance of any of these provisions.

16. Coming to the last section viz., [Section 117](#) of R.P.Act, it deals with security for costs and requires the election petitioner to deposit, at the time of presenting an election petition, in the High Court, in accordance with the Rules of the High Court, a sum of Rs.2,000/- as security for the costs of the election petition. The said security for costs has also been admittedly paid by the first respondent/returned candidate. Therefore, none of these limbs available under [Section 86](#) of R.P.Act are available in the facts of the present case, requiring this Court to dismiss the election petition at the threshold.

17/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026

17. Admittedly, in the present case, the entire focus of rejection of the election petition is revolving around the material facts and particulars not pleaded in the election petition and therefore, no triable issues arise for consideration and consequently, there is no cause of action and the election petition is therefore liable to be rejected, without driving the parties to undergo the agony of full trial.

18. [Section 100](#) of R.P.Act only sets out broad grounds on which an election can be declared to be void. The Hon'ble Supreme Court in [Rajendra Kumar Meshram vs Vanshmani Prasad Verma and another](#), reported in (2016) 10 SCC 715, has held that when there is an improper rejection of nomination, as also improper acceptance of nomination and such improper acceptance or rejection materially affects the election result, then, the election itself can be declared as void.

19. In the present case, the election petitioner has specifically allege that the Returning Officer has rejected nominations of 32 independent candidates. [Section 100 \(1\)\(c\)](#) of R.P.Act does not require that the nomination being improperly rejected has to be necessarily challenged only by the candidate whose nomination is rejected. 18/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026

20. [Section 100](#) of R.P.Act is available to be invoked by even an elector/voter. Therefore, I do not see any force in the arguments of the learned Senior Counsel Mr.Satish Parasaran that since the candidates, whose nominations have been rejected themselves, have not challenged the election result, it is not open to the voter to seek declaration of the result as void invoking [Section 100\(1\)\(c\)](#) of the R.P.Act.

21. As regards corrupt practices, [Section 100 \(1\)\(d\)](#) of R.P.Act empowers the High Court to annul the election if the Court finds that the result of the election, insofar as it concerns a returned candidate, is materially affected (i) by the improper acceptance of any nomination, or (ii) by any corrupt practice committed in the interest of the returned candidate by an agent other than his election agent, or (iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or (iv) for non-compliance with the provisions of the Constitution or of this Act, or of any Rules or orders made under this Act.

22. [Section 100 \(2\)](#) of R.P.Act vests a discretion with this Court. Even when the Court forms an opinion that the returned candidate is guilty by an agent, other than his election agent, of any corrupt practice, still the Court can declare the election of the returned candidate as not void, if this Court is satisfied that no such corrupt practice was 19/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 committed at the election by the candidate or his election agent and that the corrupt practices were committed contrary to the orders and without the consent of the candidate or his election agent; and where the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and where in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents.

23. On a combined reading of [Sections 100](#) and [101](#) of R.P.Act, it is thus crystal clear that unless the parties are relegated to a full fledge trial, this Court cannot enter upon a satisfaction with regard to the allegations of corrupt practices or even with regard to improper rejection of nominations.

24. Cause of action is a bundle of necessary facts that has to be pleaded in the election petition. On reading of the election petition, I find that sufficient material allegations have been made, if which are successfully established at trial, would compel this Court to declare the election as void. The arguments of Mr.Satish Parasaran that the allegations in the election petition are unsubstantiated, in my considered opinion, does not and cannot arise at the pre-trial stage. Only when the parties enter the witness box and adduce evidence, they will be in a position to establish the averments and 20/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 allegations made in the pleadings. Therefore, it cannot be contended by the returned candidate that even in the election petition, the proof of allegations have to be shown or made beyond all reasonable or satisfactory doubts.

25. Coming to the decisions relied on by the learned Senior Counsel for the petitioner, in [Samant N.Balakrishna and another vs George Fernandez and others](#), reported in (1969) 3 SCC 238, the Hon'ble Supreme Court found omission of material facts which resulted in an incomplete cause of action and held that such materials facts cannot be introduced after the expiry of 45 days limitation period. On this ground, the election petition was dismissed.

26. In [Jumuna Prasad Mukhariya and others vs Lachhi Ram and Others](#), reported in (1954) 2 SCC 306, the Hon'ble Supreme Court, no doubt, held that when [Section 100\(2\)\(b\)](#) of R.P.Act is invoked to declare the election of a candidate as void, it was not necessary to prove that the result of the election was materially affected thereby, since clause (b) is an alternative that stands by itself. However, the Hon'ble Supreme Court held that there is no escape from proof of corrupt practice being committed. Straight

away, I am not obligated to place reliance on this decision for the simple reason that the Hon'ble Supreme Court was not dealing with rejection of an 21/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 election petition under Order VII Rule 11 of Civil Procedure Code, but , testing a final decision of the Court after elaborate trial.

27. In [Kanimozhi Karunanidhi vs A.Santhana Kumar & Others](#), reported in (2024) 18 SCC 592, the Hon'ble Supreme Court has held that if an election petition is bereft of material facts and does not disclose a cause of action, then, the Court should reject the election petition under Order VII Rule 11 of Civil Procedure Code, without compelling the returned candidate to face the agony of trial. In [the said decision](#), the Hon'ble Supreme Court held that the expression "material facts" means the entire bundle of facts which constitute a complete cause of action and which if established, the election petitioner would be entitled to the reliefs claimed. The Hon'ble Supreme [Court further held](#) that such facts include positive statement of facts as also possible averments of negative facts and any omission of single material fact would lead to incomplete cause of action and consequently such bald and vague allegations without basis would render the election petition vexatious and not entertainable.

28. The Hon'ble Supreme [Court further held](#) that it is first required to be answered as to whether the Court could have given a direct verdict in favour of the election petitioner in case the returned candidate had not appeared to oppose the election 22/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 petition the basis of the facts pleaded in the petition. The Hon'ble Supreme Court however also specifically noted that there is no definition of "material facts" either in the R.P.Act, 1951 or in the Civil Procedure Code and it is only the march of law that has developed the tests of what is "material". The Hon'ble Supreme Court found that there was no averment in the election petition as to how non-compliance with the provisions of the R.P.Act or the Rules made thereunder had materially affected the result of the election so as to attract [Section 100 \(1\)\(d\)\(iv\)](#) of the R.P.Act for declaring the election as void and on such score, the election petition was rejected under Order VII Rule 11 of Civil Procedure Code.

29. Also, in the case of Senthil Balaji V. Vs A.P.Geetha & Others, reported in (2023) 16 SCC 279, on facts, the Hon'ble Supreme Court found that the allegations regarding electoral misconduct and corrupt practices were vague and general in nature and material facts have not been pleaded in the election petition and on such grounds, rejected the election petition. However, in the facts of the present case, as already discussed, the petitioner has complied with the requirements of the statute and has given not only concise statement of facts, entitling him to seek for annulment of election, but has also pleaded several grounds and instances with names of persons and dates, as practically as possible. Therefore, under such circumstances, these averments and 23/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 allegations can be put to test only during trial and cannot be characterised as bald and vague allegations in a summary manner, that too, in an application under Order VII Rule 11 of Civil Procedure Code, which has to be tested solely on the averments and allegations made in the election petition and the documents filed in support thereof.

30. The Constitutional Bench of the Hon'ble Supreme Court in [Balwan Singh vs Lakshmi Narain and Others](#), reported in 1960 SCC Online SC 281, held that every election petition being subject to the provisions of R.P.Act and Rules made thereunder are to be tried as nearly as may be, in accordance with the procedure applicable under the Civil Procedure Code to trial of suits and where insufficient particulars of corrupt practice are set forth in an election petition, the election petition is not liable to be dismissed in limine merely because full particulars of corrupt practice alleged in the petition are not set out and where an objection is raised by the respondents that the petition is defective because full particulars of an alleged practice are not set out, the Tribunal is bound to decide as to whether the objection is well founded and for rendering such finding on such objections, the Tribunal will have to give an opportunity to the petitioner to apply for leave to amend and amplify the particulars of corrupt practice alleged and only in the event of non-compliance with such order, the Tribunal may proceed to strike out the charges which remain vague.

24/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026

31. The Hon'ble Supreme [Court further held](#) that insistence upon full particulars of corrupt practices, no doubt, is of paramount importance in the trial of an election petition, but, if the parties go to trial despite the absence of full particulars of corrupt practices alleged and the evidence of contesting parties is led on the plea raised in the petition, then the petition cannot thereafter be dismissed for want of particulars because the defect is only one of procedure and not of jurisdiction of the Tribunal.

32. The Hon'ble Supreme Court, in fact, very significantly, held that the election petition can be dismissed only when there is non-compliance with the provisions of [Section 81](#), [82](#) or 117 of R.P.Act and it does not include [Section 83](#) of R.P.Act. Therefore, the Constitution Bench held that when there is non-compliance of [Section 83](#) of R.P.Act, it will not entail dismissal of the election petition, for want of particulars.

33. [Section 83](#) of R.P.Act viz., the election petition containing concise statement of material facts on which the election petitioner relies on alone has been predominantly focused by learned Senior Counsel Mr.Satish Parasaran. 25/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026

34. As held by the Hon'ble Constitution Bench of Hon'ble Supreme Court, when non-compliance of [Section 83](#) of R.P.Act is not a ground to reject the election petition at the threshold, I am unable to see how the application to reject the election petition can be

maintained on this limited score.

35. In the case of [F.A. Sapa and Others vs Singora and Others](#), reported in (1991 SCC Online SC 189, a Three Judge Bench of the Hon'ble Supreme Court held that the election of the returned candidate can be rendered void on proof of alleged corrupt practice which would also incur subsequent disqualification of the returned candidate and that use of corrupt practices in an election to secure short term gains, at the cost of purity of the democratic process of our country was frowned upon by the Hon'ble Supreme Court.

36. The Hon'ble Supreme Court has further held that before rejecting an election petition, the ingredients of the charge alleged must be satisfactorily proved beyond reasonable doubt and not merely by preponderance of probability. Even applying the ratio [laid down by](#) this Three Judge Bench of the Hon'ble Supreme Court 26/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 as well, I do not see how the applicant has made out a case for rejection of the election petition, by attempting to by-pass a legitimate opportunity that is always available to the first respondent to prove his allegations, by leading sufficient oral and documentary evidence, at trial. Even in this decision, the Hon'ble Supreme Court held that non-compliance of the requirements of [Section 83](#) of R.P.Act cannot be treated on par with the non-compliance of [Sections 81, 82](#) and [117](#) of R.P.Act.

37. Yet another Three Judge Bench of the Hon'ble Supreme Court in the case of [V.S.Achuthanandan vs P.J.Francis and Another](#), reported in 1999 SCC Online SC 321, while dealing with an appeal challenging the rejection of an election petition under Order VII Rule 11 of Civil Procedure Code, on the ground that the election petition did not disclose cause of action regarding corrupt practice and that the allegations were vague and material facts and full particulars have not been stated in the election petition, the Hon'ble Supreme Court has held that the election petition is not liable to be dismissed in limine, merely because full particulars of corrupt practice alleged were not set out and it is sufficient if primary facts are available which can be proved at trial by a party to establish the existence of a cause of action.

38. In [Muniraju Gowda P.M vs Munirathna and Others](#), reported in (2020) 10 27/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 SCC 192, yet another Three Judge Bench of the Hon'ble Supreme Court held that when the election petitioner had given factual details relating to the election process which concluded with the declaration of result and asserted that he was challenging the election on the ground of improper acceptance of nomination of the first respondent by the Returning Officer and in the light of the nature of objections taken before the Returning Officer, then the election petition has to be read as a whole and cannot be dissected sentence wise or paragraph wise to rule that the same does not disclose any cause of action. On facts, after reading the election petition, the Hon'ble Supreme Court held that the High Court had misdirected itself in concluding that the election petition did not disclose any cause of action. The Hon'ble Supreme Court has further held that though material facts would mean all basic facts constituting the ingredients of the grounds stated in the election petition in the context of relief to declare the election petition to be void and that it is well established that in an election petition, whether a particular fact is material or not and such required to be pleaded is a question which would depend on the nature of the grounds relied upon and special circumstances of the case. Therefore, even if the election petitioner makes out a reasonable cause of action with some chance of success and if the allegations in the pleadings are considered, then, the mere fact that the case is weak and not likely to succeed, by itself cannot be a ground to reject the election petition.

28/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026

39. The ratio [laid down by](#) the Constitution Bench of the Hon'ble Supreme Court as well as the above referred Three Judges' Benches of the Hon'ble Supreme Court would squarely apply to the facts of the present case. The necessary foundation facts, as set out earlier, have been clearly pleaded and the proof of such foundation facts is possible only if the parties are directed to go for trial. At the threshold, the election petition cannot be rejected for want of cause of action.

40. In such view of the matter, I do not see any merit in the application. Therefore, OA No. 866 of 2026 is dismissed.

01-10-2026 2/2 Index:yes Website:yes Speaking Order sr To The Returning Officer, No.225 Ambasamudram Assembly Constituency, 29/30 <https://www.mhc.tn.gov.in/judis> OA No. 866 of 2026 in ELP No. 2 of 2026 (Revenue Divisional Officer, Ambasamudram), Tirunelveli District.

P.B.BALAJI.,J sr Pre-Delivery Order in O.A.No.866 of 2026 in ELP No.2 of 2026 2/2 01.10.2026 30/30 <https://www.mhc.tn.gov.in/judis>