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IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Judgment Reserved on: 21st August 2025**Date of Decision: 24th December, 2025*

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EL.PET. 8/2025, I.A. 9964-9967/2025 & I.A. 12234/2025

DHRUV NARAYAN SINGH

.....Petitioner

Through: Mr. Ajay Mishra, Senior Advocate
with Mr. Rohit K. Singh, Mr. Uday N. Tiwary,
Mr. Pritam Bishwas, Mr. Yashveer Singh and
Mr. Akshat Tiwary, Advocates.

versus

ARIF MASOOD

.....Respondent

Through: Mr. Vivek Tankha and Mr. M.R.
Shamshad, Senior Advocates with Mr. Aditya
Samaddar, Mr. Vipul Tiwari, Mr. Arijit Sarkar,
Mr. Inder Dev Singh, Mr. Saiful Haque and
Ms. Zeb Hasan, Advocates.

CORAM:**HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J.**

I.A. 9963/2025 (u/O VII Rule 11 CPC r/w Section 86 of the Representation of the People Act, 1951, by Respondent)

1. This application is filed under Order VII Rule 11 CPC by the Respondent seeking dismissal of the Election Petition filed by the Petitioner on grounds mentioned therein. For the sake of convenience, parties are referred hereinafter by their litigating status in this election petition.
2. As a backdrop, the factual narrative is that Respondent filed his nomination for Bhopal Madhya Constituency for election to the Madhya Pradesh Legislative Assembly. Petitioner filed objections against



Respondent's nomination on 31.10.2023 on several grounds, which were rejected by the District Election Officer. Election to the State Assembly, Madhya Pradesh was held on 17.11.2023 and Respondent was declared elected on 03.12.2023. It was thereafter that Petitioner filed Election Petition No. 4/2024 on 10.01.2024 in the High Court of Madhya Pradesh challenging Respondent's election.

3. On 14.05.2024, Respondent filed I.A. 9930/2024 under Order VII Rule 11 CPC seeking dismissal of the election petition, which was heard and dismissed by the Madhya Pradesh High Court vide order dated 14.08.2024 *inter alia* holding that non-compliance of Section 83 of Representation of the People Act, 1951 ('RP Act') was not a ground for rejecting the petition as this was a curable defect; there was substantial compliance of Section 81(3) of RP Act; and the issue whether the allegations made against the Respondent amounted to 'corrupt practices' was a triable issue and could be decided only after evidence was led and not in an application under Order VII Rule 11 CPC.

4. Aggrieved by the judgment, Respondent approached the Supreme Court. Civil Appeal No. 10388/2024 was disposed of by the Supreme Court vide order dated 09.09.2024 remanding the matter back to the High Court for fresh adjudication of the application. The Supreme Court noted that the bone of contention between the parties revolved around contents of affidavit filed by the Respondent in compliance of Form-26 along with his nomination papers inasmuch as Petitioner's contention was that Respondent had not correctly disclosed the financial liabilities under sub-Clause (ix) of Part (B) of the affidavit and in support, relied on two letters dated 21.09.2023 (Annexures 'P-10' and 'P-11') purportedly addressed by Branch Manager, State Bank of India to the Respondent and his wife, while



Respondent asserted that he was victim of fraud committed by officials of State Bank of Mysore and the builder, whereby the housing loan money was directly transferred in the account of the builder and CBI case was pending wherein Respondent and his wife were prosecution witnesses and not accused in the chargesheet. In light of the rival stands, the Supreme Court was of the view that though these issues would otherwise be a matter of trial, however, with a view to determine whether continuation of the election petition would be an exercise in futility or there existed triable issues, it was appropriate that the High Court ascertained whether letters dated 21.09.2023 were genuine and actually issued by State Bank of India or forged.

5. The matter was thus remanded and the remit of the High Court was expanded to determine whether the letters dated 21.09.2023 were genuine or forged while adjudicating the application under Order VII Rule 11 CPC afresh. The Supreme Court also observed that for the limited purpose of deciding the application, High Court may be well withing its right to direct the Branch Manager, SBI to produce relevant documents to find out if there was any *prima facie* merit in the rival contentions of the parties regarding non-disclosure of the correct facts in the affidavit filed by the Respondent in compliance of Form-26. The Supreme Court also observed that may be the record suggesting the alienation of any property in favour of the Respondent or his wife by the builder, who are alleged to have misappropriated the sanctioned loan amount in connivance with the bank officials, could throw some light for effective adjudication of the application. Liberty was granted to the Petitioner to take additional grounds before the High Court.

6. Pursuant to the directions of the Supreme Court, summons were issued by the High Court to Branch Manager, SBI to appear with original records which could shed light on the genuineness of letters dated



21.09.2023 and related issues. Sh. Rishikesh Prasad, Branch Manager, appeared and stated that he was not the Manager of the bank in the relevant period and accordingly, Court summoned Sh. Sandeep Malviya, who was working as the Branch Manager at the relevant time, to give evidence and also produce original outward and inward registers of SBI, Ashoka Garden Branch. Sh. Malviya was examined and cross examined by the parties. High Court heard the application on all objections raised by the Respondent including the objection that letters dated 21.09.2023, being Annexures 'P-4' and 'P-5' (Annexures 'P-10' and 'P-11' before the Supreme Court) were forged and dismissed the same vide order dated 17.12.2024. Court was of the view that Annexures 'P-4' and 'P-5' were not forged and other objections relating to the procedure of filing the election petition and/or pleading grounds of corrupt practices were untenable at that stage. Petition was listed for filing lists of proposed issues and witnesses.

7. After the application was dismissed, Respondent again approached the Supreme Court challenging order dated 17.12.2024 in SLP No.1204/2025. Challenge was also laid to interim order dated 08.01.2025 in SLP No.2029/2025, wherein issues were settled. On 24.01.2025 the Supreme Court directed the parties to make a joint request before the High Court to defer the proceedings scheduled on 27.01.2025 and the proceedings were deferred by the High Court to await the outcome of SLP No.1204/2025. Both SLPs were heard and disposed of by a consent order dated 03.04.2025 and the election petition was transferred to this Court for fresh adjudication of the application under Order VII Rule 11 CPC and impugned orders dated 17.12.2024 and 08.01.2025 were set aside. The Supreme Court directed that the application will be decided keeping in view the observations of the Supreme Court made in order dated 09.09.2024 in



Civil Appeal No. 10388/2024. Petitioner was granted liberty to apply to the transferee High Court *inter alia* to make out a case in addition to the issues highlighted in paragraph 8 of order dated 09.09.2024 as there were additional issues such as alleged involvement of the Respondent in disbursement of the loan in SBI and it was left open to the Respondent to contest the application, if any, for additional grounds. The Supreme Court further directed that this Court will decide the application under Order VII Rule 11 CPC before settling the issues. It is in this backdrop that the present application came to this Court and was heard.

ARGUMENTS ON BEHALF OF THE RESPONDENT/APPLICANT:

8. The election petition deserves to be rejected at the outset since it does not meet the requirements of Section 81 of RP Act, which provides in sub-Section (3) that every election petition shall be accompanied by as many copies as there are the Respondents mentioned in the petition and each such copy shall be self-attested by the Petitioner under his own signatures to be true copy of the petition. It was urged that the petition was not properly attested by the Petitioner since he failed to attest and certify the copy to be a true copy of the original petition and the copy supplied to the Respondent was a photocopy with printed signatures and did not bear his hand written signatures in original. Additionally, the election petition does not contain a concise statement of material facts on which Petitioner relies, which contravenes provisions of Section 83(1)(a) of RP Act. In ***Laxmi Narayan Nayak v. Ramratan Chaturvedi, (1990) 2 SCC 173***, the Supreme Court reiterated the principles on the nature of pleadings in election cases and the instant petition lacks those ingredients.

9. Verification of the election petition is non-compliant with provisions of Section 83(1)(c) of RP Act, which stipulates that Petitioner has to sign



and verify the petition in the manner laid down in Civil Procedure Code, 1908 ('CPC') for verification of pleadings. Order VI Rule 15 CPC provides that the person verifying pleadings shall specify which paragraphs of the pleadings are based on his own knowledge and which paragraphs are based on information received and believed to be true by giving reference to the numbers of such paragraphs, which has not been done by the Petitioner. Further, Proviso to Clause (c) of sub-Section (1) of Section 83 mandates that if Petitioner alleges that Respondent has indulged in any corrupt practices, the petition must be accompanied by an affidavit in the prescribed form. Rule 94A of Conduct of Election Rules, 1961 ('1961 Rules') prescribes that such affidavit has to be in Form-25 annexed thereto and filing of this affidavit is neither a mere formality nor a matter of form but is one of substance and in the instant case, the affidavit filed by the Petitioner is substantially different from the prescribed format.

10. Section 123 of RP Act stipulates what shall be deemed to be 'corrupt practices' for the purposes of the Act. Affidavit filed by the Petitioner does not disclose any corrupt practices as prescribed in Section 123 and only vague statement is made that the deliberate suppression of material information in the affidavit filed along with nomination papers amounts to corrupt practices and this is true to the knowledge and belief of the Petitioner. Moreover, the affidavit is not sworn before a Magistrate of First Class or notary or Commissioner of Oaths contrary to requirement of Section 83(1)(c). Furthermore, the election petition does not disclose the ground on which election of the Respondent has been challenged and is non-compliant with mandate of Section 81 of RP Act which provides that election may be called in question on any ground specified under Section 100(1) or Section 101.



11. Even on merits, Petition discloses no cause of action and is liable to be rejected under Order VII Rule 11 CPC. It is alleged by the Petitioner that Respondent has not disclosed his financial liability owed to SBI, whereas in fact, Respondent and his wife were victims of fraud played by officials of the then State Bank of Mysore (later merged with SBI) in conspiracy with other persons including the builder. CBI has filed a chargesheet, which was accepted by Special Court (CBI), Bhopal and charges have been framed in Special Case No. 09/2013. Respondent and his wife are arrayed as prosecution witnesses in the pending criminal case and not as accused. Petitioner places heavy reliance on letters dated 21.09.2023 purportedly issued by SBI, however, the said documents are forged and a newspaper article has brought to light this fact. Forgery is also established from reply dated 23.04.2024 received by the Respondent under Right to Information Act, 2005, whereby bank deliberately refused to provide information stating that the matter pertains to CBI, knowing that if information was revealed, truth will surface. Respondent has not concealed or suppressed any information of outstanding financial liabilities in the affidavit filed with the nomination paper. Even though there was no liability of the Respondent since loan amount was never disbursed to his account, he declared the disputed amount in Column 8 (ix) of the affidavit, truthfully.

12. Petitioner's contention that Respondent has violated provisions of Section 33(5) of RP Act is also misconceived. According to the Petitioner, Respondent filed certified copy of electoral roll without filing certificate under Section 65B of Indian Evidence Act, 1872 ('Evidence Act'). This contention is without merit since Evidence Act has no application with respect to presentation of nomination papers before Returning Officer under Section 33 of RP Act. Documents submitted before the Returning Officer



cannot be construed as evidence presented before a Court and even if it is assumed that the Evidence Act is applicable, Petitioner is unable to demonstrate any provision which provides such a requirement in respect of an electoral roll. Reliance of the Petitioner on Chapter 17 of the '*Manual on Electoral Rolls*' has no relevance as these guidelines carry no statutory force and in any event, there is no provision therein which casts an obligation on a candidate to file Section 65B certificate in support of certified copy of an electoral roll. Chapter 24 of the said guidelines encapsulates the mechanism for sharing electoral rolls and paragraph 24.3 stipulates that certified copy of any electoral roll must be provided in the form prescribed in Annexure-59 thereto with no stipulation of Section 65B certificate.

13. Petitioner has not brought forth what more disclosure was required to be made by the Respondent in Form-26 nomination affidavit beyond the one sought in the specific columns enumerated therein. In fact Form-26 will show that the candidate could not have disclosed anything more. In ***Karikho Kri v. Nuney Tayang & Anr., (2024) 4 SCR 394***, the Supreme Court held that every defect in the nomination form cannot straightaway be termed to be of such character as to render its acceptance improper and that there is no absolute mandate that every non-disclosure, irrespective of this gravity and impact, would automatically amount to a defect of substantial nature, thereby manifestly affecting the result of the election or amount to 'undue influence' so as to qualify a corrupt practice. Petitioner has also failed to establish that letters dated 21.09.2023 are not forged or that there was alienation of any property in favour of the Respondent or his wife by the builder and/or that Respondent was involved in the disbursement of loan by SBI. Evidence of the Bank Manager, Sh. Rishikesh Prasad proves that there was no record of the two letters with the bank and the documents did not



even find mention in the outward Register. Sh. Malviya, erstwhile Bank Manager deposed that the letters were never sent to the Respondent and/or his wife. He also stated that some of the particulars and numbers on the letters were not as per the bank records. In ***Lok Prahari through its General Secretary S.N. Shukla v. Union of India and Others, (2018) 4 SCC 699***, the Supreme Court held that non-disclosure of assets and sources of income of the candidates and their associates would constitute corrupt practice falling under the heading ‘undue influence’ as defined in Section 123 of RP Act and there is no law which provides that non-disclosure of liabilities amounts to corrupt practice.

14. Unable to make out a case in the petition, Petitioner has filed I.A. 12234/2025 to bring on record additional issues and documents, a procedure unknown to law and hence no cognizance should be taken of the additional issues/documents at this stage. It is not disclosed how these documents came into the custody of the Petitioner, being confidential bank documents, assuming they are genuine and can be taken on record.

15. CBI investigation leading to filing of the Chargesheet revealed that Sh. A.S. Hegde, Branch Manager and Sh. Ravinder Kumar, Assistant Manager conspired with the builder Sh. Pushpendra Mishra and home loans were sanctioned in favour of private persons by using false and forged Income Tax returns and income certificates of non-existent Chartered Accountants and the loan amounts were transferred directly into the builder’s accounts. Sh. Hegde transferred the loan amounts in the account of Sh. Pushpendra Mishra in Syndicate Bank in the name of his firm through banker’s cheques and insofar as borrowers are concerned, they neither received the loan money nor houses which were to be constructed by the builder. No Sale Deeds were executed and no mortgages were created before



sanctioning the loans. Chargesheet reflects that loan of Rs. 10 lakhs was sanctioned in the name of the Respondent and the outstanding liability is to the tune of Rs. 10,29,925/- while loan of Rs. 8,90,000/- was in the name of his wife and outstanding amount is Rs. 8,15,370/-. Both are cited as prosecution witnesses No.17 and 18 in the list of witnesses and have deposed as prosecution witnesses No.29 and 30 respectively, in the CBI case. The election petition is motivated and filed only to ruin the political career of the Respondent and was well timed close to nominations and elections.

16. Election petitions are routinely dismissed at the threshold by Courts exercising power under Order VII Rule 11 CPC when found to be bereft of merit. In ***Manoj Kumar Agrawal v. State of Madhya Pradesh and Others, 2024 SCC OnLine MP 6584***, the Madhya Pradesh High Court relying on the judgment of the Supreme Court in ***Eldeco Housing and Industries Limited v. Ashok Vidyarthi and Others, 2023 SCC OnLine SC 1612***, on the aspect of applicability of Order VII Rule 11 CPC dismissed the election petition on the ground that the facts pleaded did not constitute a cause of action to set into motion extraordinary jurisdiction vested in the High Court in an election petition since no material fact was pleaded in the petition alleging corruption or disloyalty or improper acceptance of disqualified candidate's nomination etc. Reliance was placed by the High Court on the judgment of the Supreme Court in ***Kanimozhi Karunanidhi v. A. Santhana Kumar and Others, 2023 SCC OnLine SC 573***, wherein reference was made to Section 83(1)(a) of RP Act providing that an election petition must contain a concise statement of material facts on which the Petitioner relies. The judgment in ***Manoj Kumar Agrawal (supra)*** was upheld by the Supreme Court on 03.02.2025. Similarly, applications under Order VII



Rule 11 were allowed by Madhya Pradesh High Court in *Narendra Patel v. Shri Gyaneshwar Patil and Others*, *Election Petition No. 18/2024*, decided on 07.04.2025 and *P C Sharma (Prakash Mangilal Sharma) v. Shri Bhagwandas Sahbnani*, *Election Petition No. 15/2024*, decided on 02.04.2025.

ARGUMENTS ON BEHALF OF THE PETITIONER:

17. It is trite that an application under Order VII Rule 11 CPC has to be decided solely on the basis of pleadings in the plaint/petition and documents filed in support thereof. Appreciation of defence raised by the Respondent is beyond the scope of judicial consideration at this stage to determine if the petition deserves to be rejected at the threshold. Correctness or otherwise of the averments in the pleadings cannot be gone into and the averments have to be taken as correct. It is equally settled that the plaint/petition cannot be rejected partially and even if some part of the pleadings discloses cause of action, petition cannot be dismissed. For this proposition, reliance was placed on the judgments of the Supreme Court in *D. Ramachandran v. R.V. Janakiraman and Others*, (1999) 3 SCC 267; *Kuldeep Singh Pathania v. Bikram Singh Jaryal*, (2017) 5 SCC 345; *Bhim Rao Baswanth Rao Patil v. K. Madan Mohan Rao Patil and Others*, (2023) 18 SCC 231; and *Vinod Infra Developers Ltd. v. Mahaveer Lunia and Others*, 2025 SCC OnLine SC 1208.

18. There is no merit in the objection of the Respondent that the election petition was filed in contravention of provisions of Section 81(3) of RP Act, which provides that every election petition shall be accompanied by as many copies thereof as there are Respondents and every such copy shall be attested by the Petitioner under his own signature to be a true copy of the petition. Respondent alleges that petition is not properly attested by the



Petitioner and there is failure to certify the copy to be a true copy of the original petition filed before the Court as also that the copy supplied to the Respondent does not bear hand written signature of the Petitioner and is a photocopy. None of these allegations are factually correct. Firstly, as required by the procedure laid down in Rule 6 of the Rules framed by Madhya Pradesh High Court for election petitions, in exercise of powers under Article 225 of the Constitution of India ('Election Rules'), election petition was scrutinized by the Authorized Officer of the Registry of the High Court and verified. It is only after he endorsed that the petition was properly drawn up, that the same was placed for hearing. The copy served upon the Respondent was duly signed in original by the Petitioner and it is only to make a false claim that he deliberately prepared the photocopy and filed the same with the application. Moreover, it is not Respondent's case that the copy was in any manner different from the original petition filed before the Court and a bare comparison would show that there is absolutely no difference in the two. In ***Murarka Radhey Shyam Ram Kumar (In both the appeals) v. Roop Singh Rathore and Others, 1963 SCC OnLine SC 129***, the Supreme Court negated a similar contention and held that Section 81(3) does not mean absolutely an exact copy but means that the copy shall be so true that nobody can possibly misunderstand it. In ***Ch. Subbarao v. Member, Election Tribunal, Hyderabad and Others, 1964 SCC OnLine SC 168***, the Supreme Court held that if the signature of the Petitioner whose name is set out in the body of the petition is appended at the end, it surely authenticates the contents of the document. Contention of learned Solicitor General in the said case that the signature at the end of the copy was meant only as a copy of that in the original petition and could not satisfy the requirement of attestation, was negated by the Supreme Court holding that



there was no need for such refinement. It was held that there was no compelling necessity to hold that the signatures were merely intended to be a copy of those on the original in order to spell out non-compliance with Section 81(3), seeing that signature in the original was not needed on the copy and a writing, copying out the name of the signatory would suffice.

19. Objection of the Respondent that petition is non-compliant with requirements of Section 83(1)(c) is misconceived. Clause (c) provides that an election petition shall be signed by the Petitioner and verified in the manner laid down in CPC for the verification of pleadings. The RP Act is a special enactment by the Parliament and a complete code regarding conduct of elections and challenging the result thereof on grounds specified within the Act as held by the Supreme Court in ***Jyoti Basu & Others v. Debi Ghosal & Others, AIR 1982 SC 983***. Section 86(1) shows that an election petition can be dismissed summarily only where there are violations of provisions of Sections 81, 82 and 117. Violation of Section 83 has not been included in Section 86, which empowers the High Court to summarily dismiss the election petition and hence compliance of Section 83(1)(c) is not mandatory but merely directory, which implies that if there is substantial compliance, consequences of dismissal of the petition will not be attracted. In case election is challenged on the ground of corrupt practices, Petitioner is required to file an affidavit in Form-25 as prescribed in Rule 4A of 1961 Rules and therefore, non-filing of additional affidavit in terms of CPC cannot be fatal so as to lead to dismissal of the petition. In this context, reliance was placed on the judgments of the Supreme Court in ***G.M. Siddeshwar v. Prasanna Kumar, (2013) 4 SCC 776*** and ***Dr. Mahachandra Prasad Singh v. Chairman, Bihar Legislative Council and Others, (2004) 8 SCC 747***.



20. Stand of the Respondent that the election petition does not contain concise statement of material facts as prescribed in Section 83(1)(a) of RP Act and deserves to be dismissed, is misplaced. Election of the Respondent is challenged by the Petitioner *inter alia* on the ground that Respondent had deliberately suppressed his huge financial liability of Rs.34,10,000/- towards SBI as on the date of submission of nomination form. Petitioner filed letter dated 21.09.2023 (Annexure P/4) issued by Branch Manager, SBI clearly mentioning details of Respondent's account, its status and outstanding dues on the said date. Petitioner also filed another letter of the same date (Annexure P/5) issued by SBI, mentioning the details of the account, its status and outstanding on the date of the letter in respect of the wife of the Respondent i.e., Ms. Rubeena Masood. In paragraph 5 of the petition, Petitioner has pleaded the legal requirements and purpose of true and honest disclosure of criminal background, assets, liabilities, educational background etc. at the time of filling the nomination form and in subsequent paragraphs, details of false/non-disclosures made by the Respondent have been graphically described and thus the petition contains concise material facts and cannot be dismissed.

21. It is denied that the petition does not disclose which corrupt practice provided under Section 123 of RP Act the Respondent indulged in or that the allegations are vague. Petitioner has averred in the election petition that Respondent and his wife are indebted to SBI and he has attempted to conceal the actual financial liabilities; Respondent is a defaulter of a Nationalised Bank and the accounts opened by him and his wife were declared Non-Performing Assets. Petitioner has also referred to the judgments of the Supreme Court in ***Lok Prahari (supra)*** and ***Krishnamoorthy v. Sivakumar and Others, (2015) 3 SCC 467***, where it was



held that non-disclosure of assets and sources of income of the candidates and their associates would constitute a corrupt practice falling under the heading 'undue influence' as defined under Section 123(2) of RP Act and this would include non-disclosure of financial liabilities.

22. Respondent filed nomination form along with affidavit in Form-26 and in Column 8 of the affidavit (Annexure P/3) made the following entries:-

S. No.	Details	Self	Husband or wife	Hindu Undivided Family (HUF)	Dependant No. 1	Dependant No. 2	Dependant No. 3
i	Loan or dues to Bank/ Name of the Bank or Amount outstanding, Nature of Loan Loan or dues	1) Axis Bank Rs. 1,39,960/- Vehicle Loan (Innova)	Zero	Not Applicable	Zero	Zero	Zero
	Loan or dues to any Other Individuals/entity other than mentioned above Name(s), Amount outstanding, nature of loan	1) Aman Education Society Rs. 7,32,500/- Personal Loan	1) Smt. Vajanti Bai Rs. 45,00,000/- House Purchase liability	Not Applicable	Zero	Zero	Zero
	Any other liability	Zero	Zero	Not Applicable	Zero	Zero	Zero
	Grand total of liabilities	8,72,460/-	45,00,000/-	Not Applicable	Zero	Zero	Zero
ii	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
iii	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
iv	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
v	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
vi	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
vii	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable



viii	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
ix	Whether any other liabilities are in dispute, if so, mention the amount involved and the authority before which it is pending.	Rs. 10,01,288/- State Bank of Mysore, Bhopal	Rs. 10,01,288/- State Bank of Mysore, Bhopal	Not applicable	Zero	Zero	Zero

23. In reply to the election petition, Respondent wrongly averred that Annexure P/3 was incorrect and not a genuine copy of the actual affidavit filed with the nomination form. This stand is falsified by the document itself, which is duly notarized and verified by the Petitioner. Moreover, Respondent is unable to point out which information in the document is incorrect. It has never been the stand of the Respondent that he or his wife challenged or disputed the loan liability in any adjudicatory forum, legally empowered and having jurisdiction to decide rival claims of the borrower and the lender bank. In fact, no dispute was ever raised even with the concerned SBI Bank on this score.

24. Chronology of events pertaining to this application show that when the application was first decided, Respondent urged that State Bank of Mysore claimed an amount of Rs.10,01,288/- and a dispute was pending as also that no amount towards housing loan was ever received by him or his wife, directly or indirectly. It was also canvassed that State Bank of Mysore had sanctioned housing loans in the name of several borrowers but the amounts were directly paid to the builders. The Supreme Court remanded the matter back to the High Court to ascertain whether letters dated 21.09.2023 were genuine and actually issued by SBI with a direction to summon Branch Manager, SBI to produce relevant documents. On remand, the High Court summoned the Branch Manager and while Sh. Rishikesh



Prasad in his statement on 04.10.2024 denied having any information pertaining to the documents on the ground that the communications pertained to the period when Sh. Malviya was the Branch Manager, Sh. Malviya, when examined on 18.10.2024, admitted that being a Branch Manager from 04.07.2023 to 03.06.2024, he had signed on the documents *albeit* he denied having issued the letters. He also stated that letters were issued on assurance of one member of the union with a view to settle the issues. During cross examination by the Petitioner, he admitted that account numbers mentioned in the letters were correct and numbers below the dates were generated as per the bank system. He categorically admitted that the letters were prepared by him and contained his original signatures, which he affixed on the bank stamp and that he read and understood the contents of these letters as correct. He also stated that details given in the letters regarding date of opening of the account, date of declaring the account as NPA were mentioned as per details given in the system of the bank. On being cross-examined by the Respondent, Sh. Malviya in response to a question whether on the date of declaring the account NPA, interest stopped, he replied that at that time recovery amount is calculated and interest calculation is not done. Therefore, the deposition of Sh. Malviya is a clear pointer to the fact that both letters dated 21.09.2023 are genuine, prepared and signed by Branch Manager, SBI and the outstanding liability of Respondent and his wife was as stated in the letters and not as disclosed in the affidavit. Clearly, there was suppression/non-disclosure of actual outstanding liability and this amounts to corrupt practices as held by the Supreme Court in ***Lok Prahari (supra)***.

25. Election of the Respondent is also vitiated on the ground that the



acceptance of his nomination form was in violation of Section 33(5) of RP Act. It is undisputed that Respondent was not an elector of Bhopal Madhya Constituency and therefore, under Section 33(5) he was mandatorily required to file: (a) electoral roll of that Constituency; or (b) relevant part of the electoral roll of that Constituency; or (c) certified copy of relevant entries in such roll along with his nomination form. Admittedly, Respondent preferred to file document at serial number (c), which was prepared electronically from the original electoral roll generated through computers, as per procedure prescribed in 'Manual on Electoral Roll'. Certified copy of the extract of the electoral roll is secondary evidence prepared from original electronic record. 'Certified copy' is not defined in RP Act and its definition has to be imported from Section 76 of Evidence Act, which is incorporated in RP Act by virtue of Section 87(2) of the said Act. Section 76 reads as follows:-

"Sec 76. Certified copies of public documents- Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees there for, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal; and such copies so certified shall be called certified copies.

Explanation- Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section."

26. Indisputably, electoral roll is prepared through computers and thus provisions of Information and Technology Act, 2000 ('IT Act') get attracted, Section 2(t) whereof defines 'electronic record' to mean data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche. Section



2(r) defines ‘electronic form’ with reference to information as any information generated, sent, received or stored in media, magnetic, optical computer memory, micro film, computer generated micro fiche or similar device. From a plain reading of Section 79 of Evidence Act, which deals with presumption of public record, it is clear that correctness of any public document/certified copy can be drawn only if the document is admissible in law and there is no doubt that for admissibility of electronic record, certificate under Section 65B is a mandate of law. Certified copy of extract of electoral roll is prepared/downloaded from the original electoral roll maintained in the form of electronic record and hence without certification, the copy is inadmissible and cannot be relied upon, as held by the Supreme Court in *Anvar P.V. v. P.K. Basheer and Others*, (2014) 10 SCC 473 and *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal and Others*, (2020) 7 SCC 1. At the time of scrutiny of nomination papers, Petitioner raised an objection to the admissibility of the document, however, the Returning Officer rejected the same vide order dated 30.10.2023, contrary to the settled law. In light of these submissions, it was prayed that the application be dismissed being bereft of merit so that the election petition can proceed on merits.

27. Heard learned Senior Counsels for the parties and examined their rival submissions.

28. The election petition from which this application under Order VII Rule 11 CPC emanates is filed by the Petitioner calling in question the election of the Respondent as Member of Legislative Assembly from 153-Bhopal Madhya Legislative Assembly Constituency of Madhya Pradesh where polling was held on 17.11.2023 and results were declared on 03.12.2023 and Respondent was declared elected. Petitioner had submitted



his nomination form and contested the election being a nominee of rival party.

29. From the narrative in the petition, it emerges that Petitioner filed the election petition before the High Court of Madhya Pradesh and Respondent filed an application under Order VII Rule 11 CPC being I.A. 9930/2024 for dismissing the petition on multiple grounds. This application was dismissed by the High Court on 14.08.2024 and a challenge was laid to the judgment by the Respondent before the Supreme Court. In Civil Appeal No. 10388/2024 arising out of SLP(C) No. 19931/2024, the Supreme Court set aside the impugned order dated 14.08.2024 directing the High Court to decide the application afresh. As recorded in the order of the Supreme Court, *inter alia* the bone of contention between the parties was the affidavit filed by the Respondent in Form-26 along with nomination papers. It was the case of the Petitioner that Respondent had not correctly and truthfully disclosed his outstanding financial liabilities as also of his wife to the tune of Rs.34,10,000/- and Rs.31,28,200/- respectively, which they owed to State Bank of Mysore and the disclosure of lesser amounts of Rs.10,01,288/- each in the column 'any other liabilities' under sub-Clause (ix) of Part (B) of the affidavit, amounted to corrupt practice. Two letters dated 21.09.2023, purportedly issued by Branch Manager, SBI were the backbone of this plea. Case of the Respondent was that he and his wife were victims of fraud between bank officials and Sh. Pushpendra Mishra, partner in M/s Prakhar Construction & Developers, Bhopal and M/s Prakhar Construction, Builders & Developers, Bhopal, whereby housing loans were sanctioned in the name of several borrowers including Respondent and his wife, but the amounts were never disbursed into the accounts of the borrowers and that criminal proceedings are pending before the CBI Court, where chargesheet has been



filed by CBI but Respondent and his wife are prosecution witnesses and not accused.

30. In this backdrop, the Supreme Court observed that while it was conscious of the fact that these issue could only be decided after trial, however, with a view to consider the substance, if any, in the application under Order VII Rule 11 CPC and to further determine whether continuation of the election petition would be an exercise in futility or there were any triable issues, it would be appropriate for the High Court to ascertain whether letters dated 21.09.2023 were genuine and issued by SBI or were forged.

31. After the matter was remanded back to the High Court, evidence of Branch Managers, SBI was recorded and vide order dated 17.12.2024, the application was dismissed. Respondent challenged the order dated 17.12.2024 as also order dated 08.01.2025, whereby Court settled the issues and directed filing of list of witnesses. By consent order dated 03.04.2025, the Supreme Court transferred the matter to this Court for fresh adjudication of this application, keeping in view the observations made by the Supreme Court in order dated 09.09.2024 passed in Civil Appeal No.10388/2024. Petitioner was granted liberty to apply to this Court to make out a case in addition to issues highlighted in paragraph 8 of order dated 09.09.2024, if there were any, such as alleged involvement of the Respondent in disbursement of the loan in SBI, without prejudice to the right of the Respondent to contest the application. For the sake of record, it may be mentioned that after the election petition was transferred to this Court, it was re-numbered as EL.PET. 08/2025 and the present application was re-numbered as I.A. 9963/2025. Petitioner also filed I.A. 12234/2025 for taking on record additional issues and documents.



32. Before proceeding further, it would be pertinent to look into the parameters delineated by the Supreme Court for deciding an application under Order VII Rule 11 CPC. In ***Saleem Bhai and Others v. State of Maharashtra and Others, (2003) 1 SCC 557***, the Supreme Court held that for purpose of deciding an application under Order VII Rule 11 CPC, only the averments in the plaint are germane and pleas taken by the Defendant in the written statement will be wholly irrelevant. In ***I.T.C. Limited v. Debts Recovery Appellate Tribunal and Others, (1998) 2 SCC 70***, the Supreme Court held that basic question to be decided while deciding the application is whether a real cause of action has been set out in the plaint or something purely illusory has been stated. In ***Sopan Sukhdeo Sable and Others v. Assistant Charity Commissioner and Others, (2004) 3 SCC 137***, the Supreme Court held that the real object of Order VII Rule 11 CPC is to keep out of Courts the irresponsible law suits. If on a meaningful reading of the plaint, it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, Court should exercise its power and reject the plaint. The intention of the party and cause of action has to be gathered primarily from the tenor and terms of the plaint taken as a whole and there cannot be any dissection, segregation and inversion of the language of various paragraphs in the plaint and if this is done, it would run counter to the cardinal canon of interpretation that pleading must be read as a whole to ascertain its true import. It is the substance and not the form that has to be looked into. It was also held that a plaint cannot be rejected partially. In ***Eldeco (supra)***, the Supreme Court reiterated that for purpose of Order VII Rule 11 CPC, only the averments in the plaint would be relevant and there can be no addition or subtraction. Reference was made to the judgment of the Supreme Court in ***Dahiben v. Arvinbhai Kalyanji Bhanusali (Gajra) Dead Through Legal***



“18. The law applicable for deciding an application under Order 7 Rule 11CPC was summed up by this Court in Dahiben v. Arvindbhai Kalyanji Bhanusali. Relevant parts of para 23 thereof are extracted below: (SCC pp. 377-79)

23.2. The remedy under Order 7 Rule 11 is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.

23.3. *The underlying object of Order 7 Rule 11(a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11(d), the court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.*

23.4. *In Azhar Hussain v. Rajiv Gandhi [Azhar Hussain v. Rajiv Gandhi, 1986 Supp SCC 315] , this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words: (SCC p. 324, para 12)*

‘12. ... The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless and bound to prove abortive should not be permitted to occupy the time of the court and exercise the mind of the respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even in an ordinary civil litigation the court readily exercises the power to reject a plaint, if it does not disclose any cause of action.’

23.5. The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.

23.6. Under Order 7 Rule 11, a duty is cast on the court to determine whether the plaint discloses a cause of action by scrutinising the averments in the plaint [*Liverpool & London S.P. & I. Assn. Ltd. v. M.V. Sea Success*, (2004) 9 SCC 512], read in conjunction with the documents relied upon, or whether the suit is barred by any law.



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23.9. In exercise of power under this provision, the court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration. [Sopan Sukhdeo Sable v. Charity Commr., (2004) 3 SCC 137]

23.11. The test for exercising the power under Order 7 Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed. This test was laid down in *Liverpool & London S.P. & I. Assn. Ltd. v. M.V. Sea Success* [Liverpool & London S.P. & I. Assn. Ltd. v. M.V. Sea Success, (2004) 9 SCC 512] which reads as: (SCC p. 562, para 139)

‘139. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said purpose, the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments made in the plaint are taken to be correct in their entirety, a decree would be passed.’

23.12. In *Hardesh Ores (P) Ltd. v. Hede & Co.* [Hardesh Ores (P) Ltd. v. Hede & Co., (2007) 5 SCC 614] the Court further held that it is not permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact. *D. Ramachandran v. R.V. Janakiraman* [D. Ramachandran v. R.V. Janakiraman, (1999) 3 SCC 267; See also *Vijai Pratap Singh v. Dukh Haran Nath Singh*, 1962 SCC OnLine SC 56 : AIR 1962 SC 267] .

23.13. If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order 7 Rule 11CPC.

23.14. The power under Order 7 Rule 11CPC may be exercised by the court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of *Saleem Bhai v. State of Maharashtra* [Saleem Bhai v. State of Maharashtra, (2003) 1 SCC



557]. The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in *Azhar Hussain case* [*Azhar Hussain v. Rajiv Gandhi*, 1986 Supp SCC 315. Followed in *Manvendrasinhji Ranjitsinhji Jadeja v. Rajmata Vijaykunverba*, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823] .

23.15. The provision of Order 7 Rule 11 is mandatory in nature. It states that the plaint “shall” be rejected if any of the grounds specified in clauses (a) to (e) are made out. If the court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the court has no option, but to reject the plaint.””

33. Very recently in ***Karam Singh v. Amarjit Singh and Others*, 2025 SCC OnLine SC 2240**, the Supreme Court re-stated the proposition of law that the basic principles governing rejection of a plaint/petition under Order VII Rule 11 CPC are that only the averments made in the plaint/petition are to be looked into and nothing else including the defence of the defendant, is relevant. Learned Senior Counsel for the Petitioner rightly relied on the judgment of the Supreme Court in ***Bhim Rao (supra)*** for the equally settled proposition of law that there cannot be partial rejection of the plaint in exercise of power under Order VII Rule 11 CPC. This judgment is particularly important to this case as it deals with an election petition and relevant observations of the Supreme Court are as follows:-

“27. It is a salutary position in law that there cannot be a partial rejection of the plaint (or petition, as in this case) in exercise of power under Order 7 Rule 11CPC. This Court had stated this principle, in *Sejal Glass Ltd. v. Navilan Merchants (P) Ltd.* [*Sejal Glass Ltd. v. Navilan Merchants (P) Ltd.*, (2018) 11 SCC 780 : (2018) 5 SCC (Civ) 256 : (2017) 7 SCR 557] in the following manner : (SCC p. 784, para 8)

“8. ... This cannot elevate itself into a rule of law, that once a part of a plaint cannot proceed, the other part also cannot proceed, and the plaint as a whole must be rejected under Order 7 Rule 11. In all such cases, if the plaint survives against certain defendants and/or properties, Order 7 Rule 11 will have no application at all, and the suit as a whole must then proceed to trial.”

This principle was stated clearly, in *D. Ramachandran v. R.V. Janakiraman* [*D. Ramachandran v. R.V. Janakiraman*, (1999) 3 SCC 267 : (1999) 1 SCR 983] which, in relation to an election petition, explained



the position as follows : (SCC p. 272, para 10)

“10. ... The election petition as such does disclose a cause of action which if unrebutted could void the election and the provisions of Order 7 Rule 11(a)CPC cannot therefore be invoked in this case. There is no merit in the contention that some of the allegations are bereft of material facts and as such do not disclose a cause of action. It is elementary that under Order 7 Rule 11(a)CPC, the court cannot dissect the pleading into several parts and consider whether each one of them discloses a cause of action. Under the Rule, there cannot be a partial rejection of the plaint or petition.”

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*29. A plain look at the election petition reveals that apart from allegations pertaining to non-disclosure of criminal cases pending against the appellant, or cases where he was convicted, other averments and allegations have been made regarding non-compliance with stipulations regarding information dissemination and the manner of dissemination through publication in newspapers, the font size, the reach of the newspapers concerned amongst the populace, etc. The alleged non-compliance with statutory and Election Commission mandated regulations, and their legal effect, cannot be examined in what are essentially summary proceedings under Order 7 Rule 11CPC, or even under Order 12 Rule 6CPC. Even if the allegations regarding non-disclosure of cases where the appellant has been arrayed as an accused, are ultimately true, the effect of such allegations (in the context of provisions of law and the non-disclosure of all other particulars mandated by the Election Symbols Order) has to be considered after a full trial. The admission of certain facts (and not all) by the election petitioner cannot be sufficient for the court to reject the petition, wholly. Even in respect of the undeniable nature of the judicial record, the effect of its content, is wholly inadequate to draw a decree in part. This Court has also ruled that the truth or otherwise of anything is ordinarily a matter of evidence, in a full-blown trial, in *Virender Nath Gautam v. Satpal Singh* [*Virender Nath Gautam v. Satpal Singh*, (2007) 3 SCC 617 : 2006 Supp (10) SCR 413] : (SCC p. 632, para 52)*

“52. The High Court, in our considered opinion, stepped into prohibited area of considering correctness of allegations and evidence in support of averments by entering into the merits of the case which would be permissible only at the stage of trial of the election petition and not at the stage of consideration whether the election petition was maintainable and dismissed the petition. The said action, therefore, cannot be upheld and the order deserves to be set aside.”

34. In ***D. Ramachandran (supra)***, the Supreme Court was considering dismissal of an election petition on a preliminary issue. It was held by the



Supreme Court that Rule 11 of Order VII enjoins the Court to reject the plaint where it does not disclose a cause of action. The application was filed by the Respondent on the footing that averments in the election petition did not contain material facts giving rise to triable issue or disclosing a cause of action. It was held by the Supreme Court that it was not possible to agree with the Respondent on a plain reading of the election petition that it did not disclose a cause of action, which if unrebutted, could void the election. Courts cannot dissect the pleadings into several parts and consider whether each one of them discloses the cause of action. Pertinently, the Supreme Court refrained from adverting to the arguments pertaining to each allegation of corrupt practice, lest any observation might affect the views of the Trial Judge. The distinction between ‘material facts’ and ‘full particulars’ was highlighted along with the different consequences that follow owing to a failure to set out either of them.

35. With this backdrop, I may now examine whether the petition deserves to be rejected at the threshold on the objections raised by the Respondent in the present application. Ordinarily, in light of the settled law this Court is only required to look into the petition only and the documents appended thereto for the purpose of deciding this application, however, in light of the directions of the Supreme Court, I have to determine *albeit prima facie* whether the letters dated 21.09.2023 are genuine and were issued by SBI or are forged, which will have a bearing on the disclosure made by the Respondent in Form-26 filed at the time of his nomination.

36. Broadly understood, the grounds of rejection of the election petition brought forth by the Respondent in the present application are: (a) petition is filed in contravention of Section 81(3) of RP Act inasmuch as copies of the petition have not been properly attested to be true copies of the original



petition as also that the copy furnished to the Respondent does not bear original signatures of the Petitioner; (b) petition does not contain a concise statement of material facts contrary to Section 83(1)(a) of RP Act; (c) petition is not compliant with Section 83(1)(c) as the petition is not verified in accordance with Order VI Rule 15 CPC; (d) the affidavit filed by the Petitioner along with the petition is not in prescribed Form-25 as required under Rule 94A of 1961 Rules since Petitioner alleges corrupt practices against the Respondent; (e) affidavit filed in support of the election petition is not sworn by any of the stipulated authorities i.e., Magistrate of First Class or notary or Oath Commissioner; (f) petition lacks material particulars required under Section 100 of RP Act; and (g) affidavit accompanying the petition does not disclose which 'corrupt practices' out of the practices provided under Section 123 of RP Act, Respondent has indulged in.

37. Coming to the plea under Section 81(3) on the aspect of attestation, Petitioner has categorically denied in his reply that the petition is non-compliant with Section 81(3) and has stated that three sets of the petition, all duly signed, verified and attested as per law were filed and copies were attested by the Petitioner affixing his signatures. It is denied that the copy served upon the Respondent did not bear original signature of the Petitioner and instead it is alleged that Annexure A/1 filed by the Respondent purporting to be a copy furnished by the Petitioner, is in fact a photocopy which he has himself prepared deliberately to set up a false case. Significantly, no rejoinder has been filed to the reply controverting this factual position. Additionally, learned Senior Counsel also urged and rightly so, that when the petition was filed it was duly scrutinized and checked by the designated authority under Rule 6 of the Election Rules and only after



the concerned Registrar was satisfied that the petition was compliant with all requirements, he endorsed his opinion to this effect and petition was listed for hearing before the Court. This position is also untraversed. Sub-Rules (3), (4) and (5) of Rule 6 provide a procedure for scrutiny of the election petition before it is cleared for listing before the Court to ensure that it is compliant with relevant provisions of RP Act and in this case, only after the concerned Registrar endorsed that the petition was compliant, it was listed. For the sake of ease of reference, relevant Rules as extracted in the order of the Madhya Pradesh High Court are placed hereunder:-

“(3) The Deputy Registrar shall have the petition examined in order to find out that all the requirements of the Representation of the People Act, 1951, and these rules have been complied with.

(4) The Deputy Registrar shall affix his full signature to every page of the petition and the affidavit accompanying it.

(5) The Deputy Registrar, after examining the petition, shall record his opinion on the opening order-sheet in the following form - “Presented on by properly drawn up, apparently within time and properly stamped.”

38. Moreover, as rightly flagged by the Petitioner, the contents of the copy of the petition supplied to the Respondent is not different from the original copy filed before the Court. The objective behind attestation of the copy as ‘true copy’ is to ensure that the Petitioner supplies to the opposite party what he files and it is trite that if the copies are substantially the same, election petition cannot be dismissed for non-compliance of Section 81(3). In this context, I may allude to the judgment of the Supreme Court in ***Murarka (supra)***, where it was urged by one party that there was non-compliance of Section 81(3) because the copy of the election petition served on the Appellant was not a true copy of the original filed before the Election Commission nor was it properly attested to be a true copy under the signature of the Petitioner. It was also contended that the affidavit in respect



of corrupt practices accompanying the election petition was neither properly made nor in the prescribed form. Dealing with these issues, the Supreme Court held as follows:-

“3. We may now state briefly the grounds on which the appellant contends that the two election petitions were not maintainable and should have been dismissed by the Election Tribunal. With regard to Election Petition No. 269 of 1962 the grounds urged before us on behalf of the appellant are three in number. Firstly, it is contended that there was non-compliance with the mandatory provisions of Section 82 of the Act. We shall presently read that section. The contention of the appellant is that Ballu or Balji whose nomination paper was rejected and who was not a contesting candidate was improperly impleaded as Respondent 7 to the election petition, though Section 82 requires that in cases where in addition to the relief of declaring the election of the returned candidate to be void, a further declaration is claimed that the petitioner himself or some other candidate has been duly elected, all the contesting candidates must be made parties to the election petition. Ballu or Balji was not a contesting candidate and was therefore impleaded to the election petition in contravention of the provisions of Section 82. Secondly, it is urged that there was non-compliance with the provisions of Section 81(3) of the Act because the copy of the election petition served on the appellant was not a true copy of the original filed before the Election Commission nor was it properly attested to be a true copy under the signature of the petitioner who filed the election petition. Thirdly, it is urged that there was non-compliance with the provisions of Section 83 of the Act inasmuch as the affidavit in respect of corrupt practices which accompanied the election petition was neither properly made nor in the prescribed form.

4. With regard to Petition No. 295 of 1962 the grounds alleged are these Firstly, it is stated that at the time of its presentation to the Election Commission, the petition was not accompanied by true copies of the petition as required by Section 81(3) of the Act because there was a reference to four enclosures at the foot of the schedule of the original petition, but in the copy served on the appellant the enclosures were not reproduced. Secondly, it is urged that the election petition was not duly verified inasmuch as the date and place of verification were not stated at the foot of the verification clause. Thirdly, it is urged that a copy of the treasury receipt showing the deposit of a sum of Rs 2000 in favour the Election Commission was not enclosed with the copy of the petition which was served on the appellant, nor was the copy of the order dated January 2, 1962 by which the returning officer rejected the nomination paper of the petitioner, signed or verified by the petitioner.

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8. We now go to the second point. But before we do so, it may perhaps be



stated that certain defects in the verification of Election Petition No. 269 of 1962 have been brought to our notice, as they were brought to the notice of the Election Tribunal. One of these defects was that though the verification stated that the averments made in some of the paragraphs of the petition were true to the personal knowledge of the petitioner and the averments in some other paragraphs were verified to be true on the basis of advice and information received by the petitioner from legal and other sources, the petitioner did not state in so many words that the advice and information received was believed by him to be true. The Election Tribunal took the view that this defect in verification was a matter which came within clause (c) of sub-section (1) of Section 83 and the defect could be removed in accordance with the principles of the Code of Civil Procedure, 1908. The Election Tribunal further held that such a defect did not attract sub-section (3) of Section 90 inasmuch as that sub-section does not refer to non-compliance with the provisions of Section 83 as a ground for dismissing an election petition. We agree with the view expressed by the Election Tribunal. We have pointed out that sub-section (4) of Section 90 originally referred to three sections, namely, Sections 81, 83 and 117. It said that notwithstanding anything contained in Section 85 the Tribunal might dismiss an election petition which did not comply with the provisions of Section 81, Section 83 or Section 117. Section 90 was amended by Act 27 of 1956. Sub-section (3) then said that the Tribunal shall dismiss an election petition which does not comply with the provisions of Section 81, Section 82 or Section 117 notwithstanding that it has not been dismissed by the Election Commission under Section 85. There was a further amendment by Act 40 of 1961 and sub-section (3) of Section 90 as it now stands has already been quoted by us in an earlier part of this judgment. It seems clear to us that reading the relevant sections in Part VI of the Act, it is impossible to accept the contention that a defect in verification which is to be made in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings as required by clause (c) of sub-section (1) of Section 83 is fatal to the maintainability of the petition.

9. On behalf of the appellant it has been further contended that the copy of the petition which was served on the appellant was not a true copy within the meaning of the mandatory provisions of sub-section (3) of Section 81 of the Act. The argument is that a failure to comply with the provisions of sub-section (3) of Section 81 attracts sub-section (3) of Section 90 and it is obligatory on the Tribunal to dismiss an election petition which does not comply with the requirements of sub-section (3) of Section 81. On the basis of the decision of this Court in Sri Babu Ram v. Shrimati Prasanni [(1959) SCR 1403] it is contended that the principle in such cases is that whenever the statute requires a particular act to be done in a particular manner and also lays down that failure to comply with the said requirement leads to a specific consequence, it would be difficult to accept the argument that the failure to comply with the said requirement should lead to any other consequence. It is argued that no question of substantial compliance



arises in such cases, and the mandatory requirement must be strictly complied with.

10. Let us first see what are the defects found in the copy of the petition served on the appellant. It is admitted that the first part of sub-section (3) of Section 81 has been complied with and the election petition was accompanied by as many copies thereof as there were respondents mentioned in the petition. It is also admitted that one more copy for the use of the Election Commission was also given with the petition. The last part of the sub-section says that “every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition”. The grievance of the appellant is that this part of the sub-section was not complied with inasmuch as (1) the copy which was served on the appellant did not contain the signature of the petitioner at the foot of the petition, though the original contained such signature, and (2) the verification in the copy served on the appellant omitted to mention para 14-g(ii) in that part of the verification which related to averments stated to be true to the personal knowledge of the petitioner. As to the first of these defects the Election Tribunal pointed out that every page of the copy served on the appellant was attested to be a true copy under the signature of the petitioner and furthermore it was not necessary to append a fresh signature to the copy of the petition. With regard to the second defect the Election Tribunal apparently took the view, though it did not say so in so many words, that the omission of a reference to para 14-g(ii) in the verification in the copy served on the appellant was a case of mere oversight which did not mislead anybody because in the body of the petition full details of the averments were made. The High Court took the view that the defect was not of such a nature as to amount to a non-compliance with the provisions of sub-section (3) of Section 81.

11. We agree with the High Court and the Election Tribunal that the first defect is not a defect at all. When every page of the copy served on the appellant was attested to be a true copy under the signature of the petitioner, a fresh signature below the word “petitioner” was not necessary. Sub-section (3) of Section 81 requires that the copy shall be attested by the petitioner under his own signature and this was done. As to the second defect, the question really turns on the true scope and effect of the word “copy” occurring in sub-section (3) of Section 81. On behalf of the appellant the argument is that sub-section (3) of Section 81 being mandatory in nature all the requirements of the sub-section must be strictly complied with and the word “copy” must be taken to be an absolutely exact transcript of the original. On behalf of the respondents the contention is that the word “copy” means that which comes so near to the original as to give to every person seeing it the idea created by the original. Alternatively, the argument is that the last part of sub-section (3) dealing with a copy is merely directive, and for this reliance is placed on the decision of this Court in *Kamaraja Nadar v. Kunju Thevar* [(1959) SCR 583]. We are of the view that the word “copy” in sub-section (3) of



*Section 81 does not mean an absolutely exact copy, but means that the copy shall be so true that nobody can by any possibility misunderstand it (see Stroud's judicial Dictionary, 3rd Edn., Vol. 4, p. 3098). In this view of the matter it is unnecessary to go into the further question whether any part of sub-section (3) of Section 81 is merely directory. Several English decisions were cited at the Bar. The earliest decision cited to us is the decision in Pocock v. Mason [131 ER 1111] where it was held that the omission of the words "the" and "by" in the copy of the writ of *capias* prescribed by the Schedule 2 W. 4, c. 39 did not invalidate an arrest. The reason given was thus expressed:*

"To ascertain whether or not an unfaithful copy produces any alteration in the meaning, supposes an exertion of intellect which it may be inconvenient to require at the hands of those who serve the copy. It was to obviate this inconvenience, that the legislature has given a form, and required that it should be pursued. Nothing but ordinary care is necessary for taking the copy."

*In a later decision Sutton v. Mary and Burgess [149 ER 1291], the copy of the writ served on the defendant omitted the letter "s" in the word "she". It was held that the omission was immaterial as it could not mislead anybody. In Morris v. Smith [150 ER 51] there was a motion to set aside the service of the writ of summons for irregularity, on the ground that the defendant being an attorney, he was only described as of Paper Buildings in the Inner Temple, London and the addition of "gentleman" was not given. It was held that the form in the Statute 2 Will. 4, c. 39 Section 1 did not require the addition of the defendant to be inserted in the writ and it was sufficient to state his residence. The writ of summons was therefore valid. In another case in the same volume Cooke v. Vaughan [150 ER 1346] it was held that where a writ of *capias* described the defendant by the addition of "gentleman", but that addition was omitted in the copy served, the copy was not a copy of the writ, in compliance with the Statute 2 Will. 4, c. 39, S. 4. On behalf of the respondents a number of decisions under the Bills of Sale Act, 1878 and the Amendment Act, 1882 (45 and 46 Vict. c. 43) were cited. The question in those cases was whether the bill was "in accordance with the form in the schedule to this Act annexed" as required by Section 9 of the Bills of Sale Act 1878, and Amendment Act 1882. In re Hewer. Ex parte Kahen [(1882) 21 Ch D 871] it was held that a "true copy" of a bill of sale within the Bills of Sale Act 1878, Section 10, sub-section 2, must not necessarily be an exact copy, so long as any errors or omissions in the copy filed are merely clerical and of such a nature that no one would be thereby misled. The same view was expressed in several other decisions and it is unnecessary to refer to them all. Having regard to the provisions of Part VI of the Act, we are of the view that the word "copy" does not mean an absolutely exact copy. It means a copy so true that nobody can by any possibility misunderstand it. The test whether the copy is a true one is whether any variation from the original is calculated to mislead an ordinary person. Applying that test we have come to the*



conclusion that the defects complained of with regard to Election Petition No. 269 of 1962 were not such as to mislead the appellant; therefore there was no failure to comply with the last part of sub-section (3) of Section 81. In that view of the matter sub-section (3) of Section 90 was not attracted and there was no question of dismissing the election petition under that sub-section by reason of any failure to comply with the provisions of Section 81. This disposes of the second preliminary objection raised before us.”

39. From the aforesaid judgment, it is clear as day that even where there is substantial compliance with the requirement of Section 81(3), election petition cannot be dismissed. If the signature of the Petitioner whose name is set out in the body of the petition is appended at the end, it authenticates the contents of the document. The contention of the party that signatures at the end of the copy of the petition were meant only as a copy of that in the original petition and could not satisfy the requirement of attestation of the copy, was negated. It was held that there was no need of so much refinement when one has to look at whether there is substantial compliance with Section 81(3) seeing that signature in original was not needed on the copy and a writing copying out the name of the signatory would suffice.

40. In this context, I may also allude to the judgment of the Supreme Court in **Ch. Subbarao (supra)**, where the issue was alleged non-compliance with Section 81(3) in an election petition and the Supreme Court held as follows:-

“5. Brahmananda Reddy thereupon moved the High Court under Article 226 of the Constitution and prayed for the issue of the writ quashing this decision of the Tribunal and sought the dismissal of the election petition for non-compliance with the provisions of the Act. The learned Judges of the High Court disallowed the other technical objections raised, but held that the petition did not comply with the requirements of Section 81(3) of the Act and for this reason they directed the dismissal of the election petition. The appellant thereafter has filed this appeal after obtaining special leave from this Court.

6. The subject of controversy in this appeal lies in a very narrow compass. But before we deal with it, it will be convenient to specify the precise defect which the learned Judges have held to be fatal to the



maintainability of the election petition. As stated earlier, the Election Petition filed was accompanied by the number of copies required to accompany the petition under Section 81(3). The Election Petition was type-written and the copies which accompanied the petition were carbon copies of the type-script, so there was no question of the copies being other than “true” copies. The copies bore two signatures in original of the election petitioner authenticating both the contents of the petition as well as the verification thereof. The petitioner did not however insert the words “true copy” before or above his signatures. The learned Judges of the High Court considered that this rendered the petition one not in accordance with Section 81(3) of the Act and it is on this ground that the Election Petition filed by the appellant has been dismissed and it is the correctness of this decision that is canvassed in the appeal before us.

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12. The succeeding sections deal with the trial of election petitions, after making provision for the appointment of an Election Tribunal by Section 86 but what is relevant in the present context is Section 90 and it is enough to quote the material words:

“(1) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the Tribunal, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits:

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Sub-section (3) reads:

“The Tribunal shall dismiss an election petition which does not comply with the provisions of Section 81, notwithstanding that it has not been dismissed by the Election Commission under Section 85.”

The reasoning on which the learned Judges have based their decision shortly stated is this. It is the requirement of Section 81(3) of the Act that an election petition should be accompanied by the number of copies specified there, and equally so that the copies so accompanying “shall be attested by the petitioner under his own signature to be a true copy of the petition”. There was, of course, the signature of the petitioner on the copies, but there was no attestation by him that “it was a true copy”. This constituted a non-compliance with the requirements of Section 81 which brought into play the terms of Section 90(3) of the Act which required the Tribunal to dismiss a petition which did not comply with the provisions of Section 81.

13. Though the learned counsel for the appellant made several submissions, we propose to deal with only one, as the same is sufficient for the disposal of this appeal. This was that in the circumstances of the case there had been a substantial compliance with the requirements of Section 81(3). Before, however, dealing with it, it will be convenient to refer to some of the submissions made to us by the learned Solicitor-General



appearing for the contesting respondents. He submitted to us certain propositions which however we consider really unexceptionable. He said that an election petition was not to be equated to an election at law or in equity, but that as the rights were purely the creature of statute, if the statute rendered any particular requirement mandatory, the courts possessed and could exercise no dispensing power to waive non compliance. We consider these propositions are sound and it is in the light of these basic positions that we shall proceed to consider whether the omission to add the words “true copy” in the copies which were admittedly exact copies of the petition, constituted a non-compliance with Section 81(3) as to render the petition liable to be rejected under Section 90(3) of the Act.

14. Learned counsel for the appellant urged that the jurisdiction of the Tribunal under Section 90(3) to dismiss “an election petition which does not comply with the provisions of Section 81” was attracted only if there was a defect in the petition itself and that a defect merely in the copy accompanying the petition would not be a case of a “petition not complying with the provisions of Section 81” so as to require or even permit the Tribunal to dismiss the petition. In support of this submission, the difference in the language employed in Section 85 and Section 90(3) of the Act in the matter of making reference to the requirements of Section 81 was adverted to. Besides, it was pointed out that both Section 90(3) and before it Section 90(4) were in their present form making reference to Section 81 when the latter section did not contain the third sub-section relating to copies accompanying the petition, and that the content of Section 90(3) should not be held enlarged because in 1961 sub-section (3) was added to Section 81 particularly because the language of Section 90(3) was not altered to reflect the change.

15. We are not impressed by this argument. When Section 81(3) requires an election petition to be accompanied by the requisite number of copies, it becomes a requirement for the presentation of the election petition to the Commission, and therefore a condition precedent for the proper presentation of an election petition. If that is a requirement of Section 81, no distinction can be drawn between the requirements of sub-sections (1) and (2) and of sub-section (3). We might add that if there is a total and complete non compliance with the provisions of Section 81(3), the election petition might not be “an election petition presented in accordance with the provisions of this part” within Section 80 of the Act. We are therefore inclined to consider that if there had been such a non-compliance with the requirement of sub-section (3) not merely the Election Commission under s. 85 but the Election Tribunal under Section 90(3) would prima facie not merely be justified but would be required to dismiss the election petition.

16. This takes us to the point as to whether the requirement of Section 81(3) has been complied with or not. The principal submission of the learned Solicitor-General was based on the language employed in Section 81(3) of the Act read in the light of the direction contained in Section



90(3) which cast on the Tribunal the duty to dismiss an election petition which did not conform to the requirements of the former. In particular, he laid stress on the use of the imperative “shall” in Section 81(3) when denoting the requirement of “attestation” “under the petitioner’s signature” of the copy bearing the signature being a “true copy”. It was in this connection that he pointed out that the provision for properly attested copies of the petition accompanying the petition was introduced by the amendment effected in 1961, and the object of Parliament was two-fold; first to save the time and inconvenience which the previous procedure cast on the Election Commission, of itself having to make copies for service on the respondents, and secondly by this means to expedite the conclusion of the trial of an election petition. He submitted that the attainment of these objects would be entirely frustrated if the respondents on whom these copies were served had still to make enquiries to satisfy themselves whether the copies were true copies, without the same being asserted to be so on their face. In support he referred us to the decisions in *Noteworthy v. Overseers of Buckland* [LR 9 C Pleas 233] and in *Spice v. Baron* [LR 2 Ex D 463] as illustrating the degree of strictness and literal compliance which was insisted on by courts in regard to provisions of like character.

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18. The second case raised a question as to the meaning of the word “true copy” in the *Innkeepers’ Liability Act 1863*, which required that in order to obtain the benefit of the limitation of liability conferred by the Act, a “copy” of the Act had to be exhibited at the inn. The copy which was exhibited omitted some material words of the section which was required to be exhibited. The court held that when a claim was made on the innkeeper for loss sustained by a guest, he could not claim the benefit of the statute. We are unable to appreciate the relevance of this decision. It turned on what was meant by the word “copy” in the Act and the portion which was omitted in the copy exhibited was a material portion. There is no doubt that such a “copy” which differs in material particulars from the original is not a ‘copy’ within the Act. In this connection we might make a reference to the decision of this Court in *Murarka v. Roop Singh* [C As 30 and 31 of 1963 (Not yet reported) Decided on 7.5.1963] where the question as to what is a “copy” is elaborately discussed and some of the English decisions touching this matter have been set out. We shall have occasion to refer to *Murarka* case [C As 30 and 31 of 1963 (Not yet reported) Decided on 7.5.1963] later, but for the present we need only add that the decision relied on by the Solicitor-General is not at variance with what this Court has laid down in *Murarka* case [C As 30 and 31 of 1963 (Not yet reported) Decided on 7.5.1963] .

19. The next matter to be considered stems from the submission as regards the object of Parliament in enacting sub-section (3) of Section 81 and that expeditious disposal of election petitions which was the object would be frustrated if substantial compliance with the provision was held sufficient.



20. We are not impressed with this argument. While we are conscious of the need for expeditious disposal of election petitions, and for the strict enforcement of provisions designed to achieve this purpose, we cannot be oblivious to the circumstance that to read every requirement literally might equally defeat the purpose for which Part VI is intended viz. that elections are conducted in accordance with the relevant statutory provisions framed to ensure purity and orderliness and that the candidate who has not obtained a majority of valid votes or has obtained it in flagrant breach of the statutory provisions is not held entitled to represent the constituency.

21. This Court had to deal with a similar question of interpretation of words which appeared mandatory in *Kamraj Nadar v. Kunju Thever* [(1959) SCR 583]. One of the points which arose for consideration was whether the requirement of Section 117 of the Act which then required the petitioner to enclose with the petition a government treasury receipt of Rs 1000 in favour of the Secretary to the Election Commission had been complied with by the election petitioner and Section 90(4) of the Act which corresponded substantially to the present Section 90(3) required the Election Tribunal to dismiss a petition which did not comply with the provisions, inter alia, of Section 117. The petitioner in that case had made the deposit of the requisite amount in the institutions named in the section but the deposit was made in favour of the Election Commission and not in favour of the Secretary to the Commission as required by statute. It was contended that the petition did not conform to the provisions of Section 117 and had therefore to be dismissed by the Tribunal. This Court rejected this submission and after adverting to the purpose of the provisions, held that this was fulfilled by the deposit made and that though the requirement as to deposit was mandatory, the same was complied with by the deposit made.

22. We consider that this reasoning is not irrelevant to the construction of Section 81(3) of the Act either.

23. In this connection we might refer to the decision of this Court in *Murarka v. Roop Singh* [C As 30 and 31 of 1963 (Not yet reported) Decided on 7.5.1963] in which this Court had to consider a question closely related to that now under debate. That case was also concerned with certain defects similar to what we have in the appeal before us. The defects which were there relied on by the returned candidate as justifying or requiring the dismissal of the election petition fell into several categories which included non-compliance with the requirements of Section 81(3). There, as here, the petition was accompanied with the requisite number of copies as specified in Section 81(3) but what was urged was as regards certain defects in the copies filed. These defects fell into two types. First there were two matters which it was stated rendered the copies filed not “true copies”. If the expressions “copy” or “true copy” were read as exact copies of the original, the copies filed did not satisfy that test. The two defects were : (1) The original petition contained



the signature of the petitioner at the foot of the petition as required by Section 83(1)(c) of the Act. In the copy filed there was no copy of this signature. To that extent therefore the copy was not an exact copy. (2) The second matter under this head was that the verification in the copy served on the appellant did not exactly correspond to that in the original in that in the latter one of the paragraphs was stated to be true to the personal knowledge of the petitioner while in the former that paragraph was omitted from this group.

24. The other type of defect which was claimed to constitute non-compliance with Section 81(3) was that the words “true copy” with the signature of the petitioner underneath were not put down in one of the annexures to the petition, copies of which were annexed to the copies of the petition filed. The order of the Returning Officer rejecting the nomination paper of the petitioner was filed with the original petition as an annexure to it, and certified copies were annexed to the copies of the petition. But this certified copy did not contain an endorsement stating that it was a “true copy” with the signature of the petitioner.

25. The High Court had held that so far as the defect in not reproducing the signature in the petition was concerned, it was cured by the fact that every page of the copy of the petition was attested to be a true copy and therefore it would not matter if the last page did not contain the signature. As regards the second, the High Court held that the failure to include the paragraph in the verification was only a clerical defect which had crept in through oversight as regards the other that it was no defect at all. This decision was upheld by this Court holding that the word “copy” in Section 81(3) meant a copy which was substantially so and which did not contain any material or substantial variation. By “copy” in Section 81(3) was meant not an exact copy but only one so true that nobody by any possibility misunderstands it not being the same as the original. Applying this test, this Court came to the conclusion that there was no failure to comply with the last part of Section 81(3), with the result that Section 90(3) of the Act was not attracted.

26. This Court besides left open the question as to whether any part of Section 81(3) was directory or whether any portion of it was mandatory. In the present case also, we do not propose to deal with the larger question as to whether Section 81(3) or any portion of it is merely directory. In view of the decision of this Court it would be clear that if there is a substantial compliance with the requirement of Section 81(3), the election petition cannot be dismissed by the Tribunal under Section 90(3). The question then is whether on the facts above-stated, there is or is not a sufficient and substantial compliance with Section 81(3). We have already pointed out that the appellant has complied with the following requirements:

“(1) The petition has been accompanied by the requisite number of copies.



(2) *The copies that accompanied the petition were true copies.*

(3) *Each of those copies bore the signatures of the petitioner.”*

27. *If the signature of the petitioner whose name is set out in the body of the petition is appended at the end, surely it authenticates the contents of the document. Now in regard to this the learned Judges of the High Court themselves observed after referring to the terms of Section 81(3):*

“No doubt, what is necessary is a substantial compliance with the requirement of attestation. For instance, if it is proved that the election petitioner has signed animo attestendi, and omitted the words ‘true copy’ by mistake or inadvertently, there is a substantial requirement of the compliance of Section 81(3). The same may be said if the relative positions of the words ‘true copy’ and of the signature one below the other are not correct.”

They however held that as there was no evidence of the signature having been appended animo attestendi, there was non-compliance with Section 81(3). The learned Solicitor-General while not disputing the correctness of the observations of the learned Judges just extracted pressed upon us that the signature at the end of the copy was meant only as a copy of that in the original petition and could not satisfy the requirement as to attestation of the copy. He also submitted that the position would have been different if there were two signatures instead of one at the end of the copy, even if the words “true copy” were omitted to be put down. In that case, he said, one signature could be treated as representing the copy of the signature on the original and the other might be taken to have been made animo attestendi. We do not however consider that there is really need for so much refinement when one has to look at whether there is a substantial compliance with the requirement of this provision. If the signatures now found on the copies were intended to authenticate the document to which it is appended viz. the copy, it would only mean that the copy did not reproduce the signature in the original. There is no compelling necessity to hold that the signatures were merely intended to be a copy of those on the original in order to spell out a non-compliance with Section 81(3), seeing that a signature in original was not needed on the copy and a writing copying out the name of the signatory would suffice. The decision of this Court in Murarka case [C As 30 and 31 of 1963 (Not yet reported) Decided on 7.5.1963] is authority for the position that the absence of a writing in the copy indicating the signature in the original would not detract the copy from being a true copy. In the circumstances, we consider that there has been substantial compliance with the requirement of Section 81(3) in the petition that was filed by the appellant and the learned Judges were in error in directing the dismissal of the petition.”

41. In ***T.M. Jacob v. C. Poulose and Others, (1999) 4 SCC 274***, the Supreme Court ruled that substantial compliance with Section 81(3) was



sufficient and petition could not be dismissed where there is substantial compliance. The object of serving a true copy of an election petition and affidavit in support of the allegations of corrupt practices on the Respondent is to enable the Respondent to understand the charge against him so that he can effectively meet the same in the written statement and prepare his defence. The requirement is thus of substance and not of form. The expression ‘copy’ in Section 81(3) means a copy which is substantially so and which does not contain any material or substantial variation of a vital nature as could possibly mislead a reasonable person to understand and meet the charges/allegations made against him in the election petition. Indeed, a copy which differs in material particulars from the original cannot be treated as a true copy of the original and this vital defect cannot be permitted to be cured after expiry of limitation period. Relevant paragraphs are as follows:-

“29. The next question which still arises for our consideration is whether the election petition in the present case was liable to be rejected in limine for non-compliance with Section 81(3) read with Section 86(1) of the Act on account of the defect in the “true copy” supplied to the respondent.

30. The precise objection of Mr Harish Salve, learned Senior Counsel based on Section 81(3) of the Act as already noticed is that the true copy of the affidavit filed in support of the allegations of corrupt practice in Form 25 as required by Rule 94-A had not been served on the appellant inasmuch as in the copy served on the appellant, the name and other particulars of the Notary and the seal and stamp of the Notary, which had been affixed on the affidavit filed along with the election petition, were conspicuous by their absence. According to Mr Salve, the variation between the affidavit filed by the election petitioner in support of the allegations of corrupt practice and the copy served on the appellant had rendered the copy as not a “true copy” of the original and notwithstanding the difference between Dr Shipra case [(1996) 5 SCC 181] and the present one, the election petition ought to have been dismissed for non-compliance with Section 81(3) of the Act. For what follows we are not persuaded to agree.

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33. Does the word “copy” occurring in Section 81(3) of the Act mean an absolutely exact copy or does it mean a copy so true that nobody could by any possibility misunderstand it. This matter is no longer res integra.



In Murarka Radhey Shyam Ram Kumar v. Roop Singh Rathore [AIR 1964 SC 1545 : (1964) 3 SCR 573] a Constitution Bench of this Court elaborately dealt with this question after referring to a catena of authorities. It was held that the test to determine whether a copy was a true one or not was to find out whether any variation from the original was calculated to mislead a reasonable person. The Constitution Bench found as untenable the contention that since copies of the petition served on the returned candidate did not contain the signatures of the petitioner below the word “petitioner”, on the copies of the petition served on the respondent, they had ceased to be true copies of the original petition, attracting the consequences of Section 86(1) of the Act. The Bench opined:

“Having regard to the provisions of Part VI of the Act, we are of the view that the word ‘copy’ does not mean an absolutely exact copy. It means a copy so true that nobody can by any possibility misunderstand it. The test whether the copy is a true one is whether any variation from the original is calculated to mislead an ordinary person. Applying that test we have come to the conclusion that the defects complained of with regard to Election Petition No. 269 of 1962 were not such as to mislead the appellant; therefore there was no failure to comply with the last part of sub-section (3) of Section 81. In that view of the matter sub-section (3) of Section 90 was not attracted and there was no question of dismissing the election petition under that sub-section by reason of any failure to comply with the provisions of Section 81.”

The Bench also opined:

“When every page of the copy served on the appellant was attested to be a true copy under the signature of the petitioner, a fresh signature below the word ‘petitioner’ was not necessary. Sub-section (3) of Section 81 requires that the copy shall be attested by the petitioner under his own signature and this was done. As to the second defect the question really turns on the true scope and effect of the word ‘copy’ occurring in sub-section (3) of Section 81. On behalf of the appellant the argument is that sub-section (3) of Section 81 being mandatory in nature all the requirements of the sub-section must be strictly complied with and the word ‘copy’ must be taken to be an absolutely exact transcript of the original. On behalf of the respondents the contention is that the word ‘copy’ means that which comes so near to the original as to give to every person seeing it the idea created by the original. Alternatively, the argument is that the last part of sub-section (3) dealing with a copy is merely directive, and for this reliance is placed on the decision of this Court in K. Kamaraja Nadar v. Kunju Thevar [AIR 1958 SC 687 : 1959 SCR 583] . We are of the view that the word ‘copy’ in sub-section (3) of Section 81 does not mean an absolutely exact copy, but means that the copy shall be so true that nobody can by any possibility misunderstand it (see Stroud’s Judicial Dictionary, Third Edn., Vol. 4, p. 3098). In this view of the matter it is



unnecessary to go into the further question whether any part of sub-section (3) of Section 81 is merely directory.”

(emphasis ours)

34. Similar view was reiterated by another Constitution Bench in Ch. Subbarao v. Member, Election Tribunal, Hyderabad [AIR 1964 SC 1027 : (1964) 6 SCR 213] wherein it was held that the expression “copy” occurring in Section 81(3) of the Act did not mean an exact copy but only one so true that no reasonable person could by any possibility misunderstand it as not being the same as the original. Agreeing with the view of the Constitution Bench in Murarka Radhey Shyam Ram Kumar case [AIR 1964 SC 1545 : (1964) 3 SCR 573] the Constitution Bench in Ch. Subbarao case [AIR 1964 SC 1027 : (1964) 6 SCR 213] ruled that substantial compliance with Section 81(3) was sufficient and the petition could not be dismissed where there had been substantial compliance with the requirements of Section 81(3) of the Act, in limine, under Section 81(1) of the Act. We are in respectful agreement with the view expressed by the Constitution Bench in Murarka Radhey Shyam Ram Kumar case [AIR 1964 SC 1545 : (1964) 3 SCR 573] as well as in Ch. Subbarao case [AIR 1964 SC 1027 : (1964) 6 SCR 213].

35. The object of serving a “true copy” of an election petition and the affidavit filed in support of the allegations of corrupt practice on the respondent in the election petition is to enable the respondent to understand the charge against him so that he can effectively meet the same in the written statement and prepare his defence. The requirement is, thus, of substance and not of form.

36. The expression “copy” in Section 81(3) of the Act, in our opinion, means a copy which is substantially so and which does not contain any material or substantial variation of a vital nature as could possibly mislead a reasonable person to understand and meet the charges/allegations made against him in the election petition. Indeed a copy which differs in material particulars from the original cannot be treated as a true copy of the original within the meaning of Section 81(3) of the Act and the vital defect cannot be permitted to be cured after the expiry of the period of limitation.

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38. We are unable to agree with Mr Salve that since proceedings in election petitions are purely statutory proceedings and not “civil proceedings” as commonly understood, there is no room for invoking and importing the doctrine of substantial compliance into Section 86(1) read with Section 81(3) of the Act. It is too late in the day to so urge. The law as settled by the two Constitution Bench decisions of this Court referred to above is by itself sufficient to repel the argument of Mr Salve. That apart, to our mind, the legislative intent appears to be quite clear, since it divides violations into two classes — those violations which would entail dismissal



*of the election petition under Section 86(1) of the Act like non-compliance with Section 81(3) and those violations which attract Section 83(1) of the Act, i.e., non-compliance with the provisions of Section 83. It is only the violation of Section 81 of the Act which can attract the application of the doctrine of substantial compliance as expounded in *Murarka Radhey Shyam* [AIR 1964 SC 1545 : (1964) 3 SCR 573] and *Ch. Subbarao* [AIR 1964 SC 1027 : (1964) 6 SCR 213] cases. The defect of the type provided in Section 83 of the Act, on the other hand, can be dealt with under the doctrine of curability, on the principles contained in the Code of Civil Procedure. This position clearly emerges from the provisions of Sections 83(1) and 86(5) of the Act which read thus:*

“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:

*86. Trial of election petitions.—(1)-(4)****

(5) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.”

42. In ***Shri Krishan Goyal v. Purshottam Lal Badhwar (Rajaji) and Another***, 1963 SCC OnLine All 147, the Allahabad High Court held as under:-

“1. This is an appeal under Sec. 116-A read with Sec. 90(3) of the Representation of the People Act. The respondent Sri Purshottam Lal Badhwar was elected and against his election an election petition was filed by the appellant Sri Krishna Goyal. That election petition has been dismissed by the Tribunal on the ground that the petition has not complied with the provisions of Sec. 81(3) of the Representation of the People Act.

2. The facts found by the Tribunal and ascertained by us from the record



are that the petition was accompanied by the relevant number of copies of the petition which were signed on each page by the petitioner but the attestation regarding the copies being true copies under the signature of the petitioner had not been appended to the copies. There are some typing and other clerical mistakes in the copies but they are not substantial in the sense that the copies which had been filed are still copies of the petition and it cannot be said that they are something very different. In his statement the petitioner stated that he had attached to each copy a slip of papers on which he had written the relevant attestation and that he had signed each page of the copy so that no interpolation may be made and the pages of the copies may not be changed.

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5. The point then arises whether this election petition which is accompanied by true copies but which have not been attested is a petition which has not complied with the requirements of Sec. 81 of the Representation of the People Act. Sec. 81 is as follows:—

“81. Presentation of Petitions: An election Petition calling in question any election may be presented on one or more of the grounds specified in (sub-Sec. (1) of Sec. 100 and Sec. 101 to the Election Commission 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 the 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) An election petition shall be deemed to have been presented to the Election Commission:

(a) when it is delivered to the Secretary to the Commission or to such other officer as may be appointed by the Election Commission in this behalf—

(i) by the person making the petition, or

(ii) by a person authorized in writing in this behalf by the person making the petition, or

(b) when it is sent by registered post and is delivered to the Secretary to the Commission or the officer so appointed.

(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and one more copy for the use of the Election Commission, 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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7. There is no dispute that this election petition complies with the provisions of Sec. 81(1) and (2). All that is contended is that it is not accompanied by copies as required by sub-Sec. (3) of Sec. 81. This sub-section requires that the election petition shall be accompanied by true copies and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition. If copies are not supplied at all, there would, of course, be no question of copies being attested. The only purpose of this sub-section requiring attestation is to ensure that the copies are true copies so that those who are served with them may not be misled and if untrue copies are supplied, the responsibility may be laid on the shoulders of the petitioner who has to take the responsibility of true copies being supplied. It is, therefore a requirement merely ancillary to the primary requirement of true copies being supplied. In the present case true copies have been supplied but they did not contain the necessary attestation. These copies also contained signatures of the petitioner who, therefore, could always be made responsible for the incorrectness of these copies as he would not be able to say that he had not supplied these copies. It, therefore, appears to us that the purpose for which this sub-section was added to Sec. 81 has been fulfilled and it cannot be said that there is non-compliance of this sub-section. The penalty provided for in Sec. 90(3) is applicable in case the petition does not comply with the requirements. This sub-section does not provide that a strict literal compliance of Sec. 81 is essential. Thus a substantial compliance of the provisions of Sec. 81(3) would, to our mind, be sufficient to hold that the petition is not liable to dismissal under Sec. 90(3). The contention of the learned counsel for the respondent that in each case where penalty is provided for non-compliance, the compliance must be strict and literal, does not appeal to us. So long as there is a compliance a penalty does not come into operation. Whether in the circumstances of the case a substantial compliance is sufficient within the meaning of law is a matter which is to be considered on the facts of each case. In the present case looking to the purpose for which sub-Sec. (3) has been added it appears to us that the supply of true copies with the signatures of the appellant who could always be made responsible for the correctness of the copy is sufficient compliance with the requirements of this sub-section. In this view of ours we can take support from a decision of their Lordships of the Supreme Court reported in *K. Kamraj Nadar v. Kunju Thevar* [A.I.R. 1958 S.C. 687.] in which in spite of a security having been supplied in a form which did not comply strictly with the requirement of law it was held to be a compliance sufficient not to entail the penalty of dismissal.

8. The second contention of the learned counsel for the appellant that mere clerical errors in the copies were not sufficient to hold that the copies supplied were not copies of the petition has also force. What has to be seen is whether the copies supplied are such as in common parlance would be said to be copies of the original petition and we have no doubt that in spite



of the minor errors those copies are copies of the original petition. This point has been recently considered by their Lordships of the Supreme Court in Civil Appeals Nos. 30 and 31 of 1963 Murarka Radhey Shyam Ramkumar v. Roop Singh decided on May 7, 1963.

9. After having considered the arguments of the parties, we are of the opinion that this appeal must be allowed and the election petition must be sent back to the Tribunal for disposal according to law. Costs of this appeal will be costs in the petition.”

43. *Albeit* in the present case, the election petition is wholly compliant with the provisions of Section 81(3) of RP Act, but assuming there is only substantial and not full compliance, election petition cannot be dismissed, in light of the law laid down in the aforesaid judgements. Respondent is unable to establish that copies of the petition were not certified as true copies or that the copy annexed along with the present application was the actual copy supplied by the Petitioner allegedly without his original signatures. Therefore, this objection of the Respondent deserves to be rejected.

44. Coming to the alleged non-compliance with Section 83(1)(c) of RP Act, the submission of the Respondent was that affidavit in support of the election petition must be in prescribed Form-25 under Rule 94A of 1961 Rules, however, in the present case, the affidavit is substantially different from the format prescribed. Section 83(1)(c) provides that an election petition shall be signed by the Petitioner and verified in the manner laid down in CPC. Indisputably, RP Act is a special Act enacted by the Parliament for specific purpose and object given in the Act itself. It is a complete Code for conduct of elections and for challenging the results of the elections on grounds mentioned therein, as held in the case of ***Jyoti Basu (supra)***. Learned Senior Counsel for the Petitioner is right in contending that Section 86(1) of RP Act mandates that the High Court shall dismiss an election petition summarily only in cases of violation of Sections 81, 82 and 117 and clearly Section 83 is not included. Therefore, the corollary is that



provisions of Section 83(1)(c) are merely directory and their violation cannot lead to summary dismissal of the election petition and the Court has to only examine if there is substantial compliance. This question came up for consideration before the Supreme Court in ***A. Manju v. Prajwal Revanna alias Prajwal R. and Others, (2022) 3 SCC 269***, where the Court was examining whether an election petition can be thrown out at the threshold on a plea of the elected candidate that the petition is not supported by an affidavit in Form-25 even though the petition is based on allegations of corrupt practices. The Supreme Court held that once there is an affidavit, *albeit* not in Form-25, the appropriate course will be to permit the affidavit to be filed in Form-25, meaning thereby that this is a curable defect. In ***K. Babu v. M. Swaraj and Others, (2024) 4 SCC 299***, the Supreme Court has held that non-compliance with requirements of Section 83 is not fatal since Section 86(1) only speaks of non-compliance with Sections 81, 82 or 117 being the basis for dismissal of an election petition at the outset. Defects in an election petition that constitute non-compliance with Section 83 are curable. Recently, in ***Kimneo Haokip Hangshing v. Kenn Raikhan and Others, 2024 SCC OnLine SC 2548***, the Supreme Court reiterated that the requirement to file an affidavit under Proviso to Section 83(1)(c) is not mandatory and it is sufficient if there is substantial compliance. The defect is curable and an opportunity can be granted to cure the defect to file the necessary affidavit. Relevant paragraphs of the judgment are as follows:-

“8. Thus, we will have to see whether “substantial compliance” of Section 83(1)(a) and 83(1)(b) has been done by the respondent.

In para 15 of the Election Petition, the respondent has pleaded that construction worth approx. Rs. 2 crores has taken place on agricultural land of the appellant, however, the column for investment in land through construction has been left empty by the appellant. Thereafter, the respondent has also pleaded that the appellant was serving as a Committee Officer in the Assembly Secretariat, Manipur Legislative



Assembly till 31.12.2021, yet, she has shown her income for FY 2021-2022 as Rs. 0/-, which is untrue.

In para 16 of the Election Petition, the respondent has referred to Section 33 of RPA and alleged non-compliance with the requirement of furnishing true and correct information by candidates. Further, in ground A (as reproduced above) it is asserted that since the appellant has concealed her investment of Rs. 2 crores in her land, her nomination papers ought to have been rejected.

On a perusal of the petition as a whole, including the averments reproduced above, it is clear that a cause of action has been disclosed by the respondent. Whether the appellant has concealed her investments and her income, and thus her nomination has been improperly accepted, is a triable issue.

9. Secondly, the affidavit, which is required as per the proviso to Section 83(1)(c) of RPA has to be given in Form 25 as per the Conduct of Election Rules, 1961, where Rule 94A reads as under:

“94A. Form of affidavit to be filed with election petition.— The affidavit referred to in the proviso to subsection (1) of section 83 shall be sworn before a magistrate of the first class or a notary or a commissioner of oaths and shall be in Form 25.”

The relevant portion of Form 25 is also reproduced below:

I, _____, the petitioner in the accompanying election petition calling in question the election of Shri/Shrimati _____ (Respondent No.____) in the said petition) make solemn affirmation/oath and say—

(a) that the statements made in paragraphs _____ of the accompanying election petition about the commission of the corrupt practice of _____ and the particulars of such corrupt practice mentioned in paragraphs _____ of the same petition and in paragraphs _____ of the Schedule annexed thereto are true to my knowledge;

(b) that the statements made in paragraphs _____ of the said petition about the commission of the corrupt practice of _____ and the particulars of such corrupt practice given in paragraphs _____ of the said petition and in paragraphs _____ of the Schedule annexed thereto are true to my information...”

10. A question had come up before a three Judge Bench of this Court in *G.M. Siddeshwar v. Prasanna Kumar*, (2013) 4 SCC 776 as to whether an Election Petition is liable to be dismissed at the very threshold even if the allegations of corrupt practices of a returned candidate have not been given by a petitioner in terms of the proviso in Section 83(1)(c) of RPA. The finding of this Court was that this cannot be done even if an affidavit is not filed in terms of the proviso. What is mandatory, however, is that there should be substantial compliance. In other words, if substantial



compliance in terms of furnishing all that is required under the law has been given, the petition cannot be summarily dismissed.

11. In a more recent case also from Manipur (Thangjam Arunkumar v. Yumkham Erabot Singh, 2023 SCC OnLine SC 1058), this Court upheld the dismissal of the returning candidate's Order VII Rule 11 application by the Manipur High Court in an Election Petition. The Court after referring to and applying the test laid down in Siddeshwar (supra) held as follows:

“14. The position of law that emerges for the above referred cases is clear. The requirement to file an affidavit under the proviso to Section 83(1)(c) is not mandatory. It is sufficient if there is substantial compliance. As the defect is curable, an opportunity may be granted to file the necessary affidavit.”

12. In view of the reasons stated above, we see no reason to interfere with the finding of the High Court of Manipur that the Election Petition discloses a cause of action and that there is substantial compliance of the requirements provided under provisions of RPA and thus the petition cannot be dismissed under Order VII Rule 11 CPC.”

45. Therefore, an election petition cannot be dismissed under Order VII Rule 11 CPC if the affidavit is substantially compliant with Form-25. In case election is challenged on the ground of corrupt practices, Petitioner is required to file an affidavit in Form-25 as prescribed in Rule 4A of 1961 Rules and therefore, non-filing of additional affidavit in terms of CPC cannot be fatal so as to lead to dismissal of the petition. In this context, reliance was correctly placed by the Petitioner on the judgments of the Supreme Court in **G.M. Siddeshwar (supra)** and **Dr. Mahachandra Prasad Singh (supra)**. In the instant case there is substantial compliance inasmuch as Petitioner states the factual narrative in the petition is true to his personal knowledge and those in relation to corrupt practices of deliberate suppression of material information in the affidavit filed along with nomination papers are true to the information received and believed to be true. Annexures P/1 to P/9 have been certified to be true copies of their originals. Thus petition cannot be dismissed at this stage on this ground.



46. The next ground on which the application is pressed is that the election petition does not contain concise statement of material facts as prescribed in Section 83(1)(a) of RP Act and is thus not maintainable. To my mind, this objection is baseless. The election of the Respondent is challenged *inter alia* on the ground that he has deliberately suppressed his liability of Rs. 34,10,000/- towards SBI as on the date of submission of nomination form as also his wife's liability to the tune of Rs.31,28,200/-. Plain reading of the election petition shows that in paragraph 5, Petitioner has detailed the procedure for filing nominations as also the disclosures required to be made for contesting the elections, including the role of the Returning Officer. From paragraph 6 onwards, Petitioner has concisely stated what according to him is the suppression and non-disclosure of outstanding liabilities of the Respondent and his wife, including the name of the bank and the concerned branch from where the housing loans were taken. It is asserted that Respondent and his wife avoided repayment of loan and as a result there is a liability of Rs. 65 lakhs. Reference is made to two letters dated 21.09.2023 addressed to the Respondent and his wife. It is further averred that from column 8(ix) of the election affidavit, it is clear that Respondent has reflected liability of Rs. 10,01,288/-, which is false as the actual liability is far in excess as also that even the name of the bank is incorrect since State Bank of Mysore did not exist on the date when the nomination form was filed. Petitioner has extracted out the relevant column of the affidavit in Form-26 prescribed under Rule 4A of 1961 Rules, filled by the Respondent indicating the outstanding liabilities of his wife and himself. Therefore, it cannot be said that the petition lacks concise material facts and there is non-compliance of provisions of Section 83(1)(a). In any event, non-compliance cannot be fatal since this provision is not covered



under Section 86 which provides that non-compliance with Sections 81, 82 or 117 is fatal. **[Ref. K. Babu (supra)]**.

47. In **Kanimozhi (supra)**, the Supreme Court held that Section 83(1)(a) mandates that election petition shall contain a concise statement of material facts on which Petitioner relies and which constitute cause of action and such facts would include positive statement of facts as also positive averments of negative fact. Mere bald and vague allegations would not suffice. In **Virender Nath Gautam v. Satpal Singh and Others, (2007) 3 SCC 617**, the Supreme Court held as follows:-

“50. There is distinction between facta probanda (the facts required to be proved i.e. material facts) and facta probantia (the facts by means of which they are proved i.e. particulars or evidence). It is settled law that pleadings must contain only facta probanda and not facta probantia. The material facts on which the party relies for his claim are called facta probanda and they must be stated in the pleadings. But the facts or facts by means of which facta probanda (material facts) are proved and which are in the nature of facta probantia (particulars or evidence) need not be set out in the pleadings. They are not facts in issue, but only relevant facts required to be proved at the trial in order to establish the fact in issue.”

48. It is clear that there is a distinction between ‘material facts’ and ‘particulars’. Material facts are primary or basic facts which must be pleaded by the Plaintiff in support of the case set up by him to prove his cause of action. ‘Particulars’ on the other hand are details in support of material facts pleaded by the party which amplify, refine and embellish material facts by giving distinctive touch to the basic contours of a picture already drawn so as to make it full, more clear and more informative. All ‘material facts’ must be pleaded in the petition or plaint, while ‘particulars’ are details of the case which are in the nature of evidence a party would be leading at the time of trial. **[Ref.: Harkirat Singh v. Amrinder Singh, (2005) 13 SCC 511]**. In the present case, material facts have been pleaded in the petition, which if



proved, may amount to corrupt practices and the objection of the Respondent deserves to be rejected.

49. The next ground urged by the Respondent in the present application for dismissal of the petition is that the petition does not disclose exactly which corrupt practice provided under Section 123 of RP Act the Respondent indulged in and the allegations are vague. This argument is wholly misconceived. Petitioner has averred in the election petition that Respondent and his wife are indebted to SBI and Respondent has attempted to conceal the actual financial liabilities; Respondent is a defaulter of a Nationalised Bank and the accounts opened by him and his wife were declared Non-Performing Assets. Petitioner has also referred to the judgments of the Supreme Court in *Lok Prahari (supra)* and *Krishnamoorthy (supra)*, where it was held that non-disclosure of assets and sources of income of the candidates and their associates would constitute a corrupt practice falling under the heading ‘undue influence’ as defined under Section 123(2) of RP Act. In *Union of India v. Association for Democratic Reforms and Another, (2002) 5 SCC 294*, the Supreme Court held that for effective exercise of his Fundamental Right under Article 19(1)(a) of the Constitution of India, the voter is entitled to have all relevant information about candidates at an election which would include criminal antecedents, if any, of the candidate, his/her assets and liabilities, educational qualifications etc. In *S. Rukmini Madegowda v. State Election Commission and Others, (2022) 18 SCC 1*, the Supreme Court held that a false declaration with regard to assets of a candidate, his/her spouse or dependants constitutes corrupt practices irrespective of the impact of such a false declaration on the election of the candidate. It was held that it may be presumed that a false declaration impacts the election. Therefore, it cannot be urged by the



Respondent that Petitioner has not pleaded any ground which amounts to ‘corrupt practices’ falling under Section 123(2) of RP Act. The distinction that Respondent seeks to draw between non-disclosure of assets and sources of income and non-disclosure of outstanding liabilities is wholly untenable in law. There are clear averments in the petition that Respondent did not disclose the actual liability towards the bank and amounts have also been mentioned. At the stage of deciding an application under Order VII Rule 11 CPC, only the averments in the petition have to be looked into. What are the exact financial liabilities of the Respondent and his wife and whether there was deliberate non-disclosure of the debt owed to the bank and/or whether Respondent is guilty of corrupt practices, are triable issues and cannot be finally adjudicated in this application. It cannot also be overlooked that criminal case is pending before the Special CBI Court.

50. As noted above, while remanding the matter to this Court, the Supreme Court has directed the Court to examine whether the two letters dated 21.09.2023 were actually issued by SBI or were forged. In order to render a *prima facie* finding on this issue, I have looked into the evidence of the Branch Managers, SBI, recorded before the Madhya Pradesh High Court. From the evidence of Sh. Malviya, it emerges that he admitted: (a) he was the Branch Manager of Ashok Garden Branch from 04.07.2023 to 03.06.2024; (b) he signed on the two letters; (c) the letters were issued at the instance of Union Leader Mr. Shobhit Wadel who told him that Rajat Verma to whom he was introduced, was a close associate of the Respondent and Rajat Verma gave him the account number of Respondent and PAN Card of his wife; (d) the account numbers mentioned on the letters were correct; (e) the letters were prepared by him and contained his original signatures affixed on the stamp of the bank; (f) he had read and understood the contents



of the letters before signing the same; and (g) details given regarding date of account opening, date of declaring the account NPA given on the letters were taken from the system of the bank. Sh. Malviya explained in his deposition that there was no mention of these letters in the outward register since Mr. Rajat Verma assured him that when he visited the bank again with the tentative amount to settle the outstanding liabilities, he will give an acknowledgement. Basis the deposition of Sh. Malviya, I am of the *prima facie* view that the two letters are not forged and were issued by Sh. Malviya, who was the Branch Manager, SBI at the relevant time. It needs no emphasis that at the stage of deciding application under Order VII Rule 11 CPC, no final conclusion can be given on forgery, the same being a matter of trial. Insofar as the challenge in the petition relates to violation of Section 33(5) of RP Act, the same is a legal issue and can only be considered at the stage of final adjudication.

51. At this stage, it is pertinent to take notice of the application filed by the Petitioner being I.A No. 12234/2025 and the additional documents appended thereto, pursuant to liberty granted by the Supreme Court. Through this application the Petitioner seeks to bring on record events and documents which according to him are pointers to the fact that loan was taken by the Respondent; officials of State Bank of Mysore conducted a pre-inspection of the site on 16.10.2008 when Respondent was present along with the bank officials, builder and the supervisor; Respondent wrote to the bank to release the loan amount directly to the builders, Prakhar Construction; Respondent made written complaint to the bank for not disbursing the loan to the builder even though 80 percent construction was completed and requested to release Rs.9.5 lakhs in favour of the builder; and sent another letter dated 04.12.2008 to release Rs.1.5 lakhs to the builder



and on the same day the builder issued a receipt acknowledging that he had received Rs.1.5 lakhs.

52. Detailed reply has been filed by the Respondent to this application broadly contending that: (a) the documents filed by the Petitioner along with the application have no relevance at this stage since the Supreme Court granted liberty to prove actual disbursement of loan, which these documents fail to establish; (b) present petition is confined to examination of the issue whether the disclosure of disputed loan amount was adequate and not to ascertain veracity of CBI trial; (c) even if documents are taken at their face value, it would not affect the non-maintainability of the election petition since it is admitted that Respondent and his wife were misguided by Sh. Pushpendra Mishra into taking the loan and were made to sign some blank papers and blank formats and never received the sanctioned amounts; (d) Respondent and his wife with at least 25 others are victims of fraud played by the bank officials and the builder and CBI trial is pending; (e) evidence of bank managers has proved that letters dated 21.09.2023 are forged; Petitioner has set up a case that conflicts with the prosecution case of CBI; (f) at the highest the issues raised in the application can be framed as additional issues and cannot be considered at this stage; and (g) Petitioner has not followed the correct procedure to bring the documents on record.

53. In my view, the opposition by the Respondent to this application is misconceived for multiple reasons. Firstly, the Supreme Court granted liberty to the Petitioner in both the orders to raise additional grounds and High Court was directed to look into them, if raised for adjudicating the application under Order VII Rule 11 CPC. Secondly, Petitioner is not setting up a new case in this application and is only attempting to further his case that the loan was taken by the Respondent from the bank and he was the one



at whose instance the bank had disbursed the loan amounts to the builder. Therefore, there is no impediment in looking into the averments in the application or the documents annexed thereto, for deciding this application. Interestingly and significantly, Respondent has not denied either the existence of the documents or the signatures on these documents.

54. On a perusal of the documents, Court finds that Respondent had applied for loan, which fact is even otherwise admitted. Pre-inspection report dated 16.10.2008 shows that the inspection was conducted at the instance of the Respondent and for processing his loan application. Documents A-3 and A-4 show that Respondent was the one who had directed the bank to disburse the loan amounts to the builder. Respondent is right in contending that these issues are matter of trial and additional issues will have to be settled and relevancy and admissibility of these documents shall be gone into at the appropriate stage. However, for the limited purpose of deciding whether the petition deserves to be rejected at the threshold, I have seen the documents which have been filed by the Petitioner pursuant to liberty granted by the Supreme Court and in my *prima facie* view, they do shed light on the involvement of the Respondent in the loan transaction from the stage of applying for the housing loan to disbursement of the loan amounts to the builder and consequently, it cannot be said that the election petition discloses no cause of action when Petitioner urges that there was non-disclosure of the entire financial liability of the Respondent and his wife in the affidavit filed with the nomination papers. Whether or not the Respondent was made to sign on blank papers or was victim of fraud or the case of the Petitioner is contrary to CBI case, as alleged by the Respondent, are triable issues and no final conclusion can be arrived at this stage. The remit of the Court in the application under Order VII Rule 11 CPC is



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circumscribed and cannot extend to examining the defence or triable issues. Looking at the averments in the petition and plethora of documents/ additional documents on record as also the evidence of Sh. Malviya with respect to the letters dated 21.09.2023, this Court is of the view that the election petition cannot be dismissed in exercise of power under Order VII Rule 11 CPC as it raises triable issues.

55. For all the aforesaid reasons, the application is dismissed.

I.A. 12234/2025

56. The documents filed by the Petitioner are taken on record subject to their relevancy and admissibility being examined finally at the appropriate stage. The additional issues raised by the Petitioner in this application will be considered at the time of settling the issues.

57. List on 22.01.2026 for settling the issues and filing of list of witnesses.

JYOTI SINGH, J

DECEMBER 24, 2025/S.Sharma