



2026:UHC:4518

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Misc. Single No. 1432 of 2026

08 June, 2026

Smt. Santosh Kumari ... Petitioner

Versus

Smt. Rishu Saini and others ... Respondents

Presence:-

Mr. Siddhartha Singh, learned counsel for the petitioner.

Mr. Arvind Vashisth, learned Senior Counsel assisted by Mr. B.S. Adhikari, learned counsel for respondent.

Mr. Sanjay Bhatt, learned counsel for respondent no. 6

Hon'ble Manoj Kumar Tiwari, J.

JUDGMENT

1. Respondent no. 1 filed a petition challenging election of petitioner as Pradhan, Gram Panchayat Bhogpur, Block Laksar, District Haridwar under Section 131 of Uttarakhand Panchayati Raj Act, 2016.

2. Petitioner filed application under Clause (a) & (d) of Rule 11 Order 7 CPC with the contention that the affidavit filed with the election petition was not as per Rule 94A of Conduct of Elections Rules, 1961, therefore, the election petition is liable to be rejected.

3. The application filed by petitioner was rejected by learned Prescribed Authority/Sub-Divisional Magistrate, Haridwar, vide order dated 28.01.2026 by relying on the judgment rendered by



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Hon'ble Supreme Court in the case of *Thangjam Arunkumar v. Yamkham Erabot Singh & others*, reported as 2013 (17) SCC 500. Petitioner challenged the order passed by Prescribed Authority in a revision petition, which was dismissed by learned 1st Additional District Judge, Haridwar vide judgment dated 15.05.2026. Challenging the aforesaid judgment and orders, petitioner has approached this Court.

4. Learned counsel for the petitioner submits that the election petition filed by respondent do not disclose any cause of action and material particulars regarding corrupt practice alleged to have been adopted during election have also not been indicated in the election petition, therefore, the election petition is liable to be rejected.

5. Per contra, learned Senior Counsel for respondent no. 1 submits that the only ground taken by petitioner in her application, filed under Order 7 Rule 11 CPC, was that the affidavit filed with election petition was not as per Rule 94A of Conduct of Elections Rules, 1961, and there was no allegation that material facts, regarding corrupt practices, were not pleaded. He further submits that application moved by petitioner discloses that the election petition was supported by affidavit. He submits that Hon'ble Supreme Court in the case of *Thangjam Arunkumar (supra)* in paragraph No. 16 has held that the requirement to file affidavit under



the proviso to Section 83(1)(c) of Representation of the People Act, 1951 is not mandatory and it is sufficient if there is substantial compliance of the aforesaid provision. He submits that even if allegation made by petitioner is taken on its face value, that affidavit filed with the election petition was not as per Rule 94A of Conduct of Elections Rules, 1961, then also an opportunity can be granted to the election petitioner to file necessary affidavit, as was held in the aforesaid decision. Relevant extract of the said judgment (*Thangjam Arunkumar v. Yamkham Erabot Singh & others*) is reproduced below: -

"12. We would refer to the statutory provisions and the judgments on the point for answering the question of law raised by the appellant. We will first refer to Sections 83 and 86 of the Act and Order 6 Rule 15CPC.

"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 Civil Procedure Code, 1908 (5 of 1908) for the verification of pleadings:

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

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

* * *

86. Trial of election petitions.—(1) The High Court shall dismiss an election petition which does not comply with the provisions of Section 81 or Section 82 or Section 117."

Order 6 Rule 15:

15. Verification of pleadings.—(1) Save as otherwise provided by any law for the time being in force, every pleading shall be verified at the foot by the party or by one of



the parties pleading or by some other person proved to the satisfaction of the court to be acquainted with the facts of the case.

(2) The person verifying shall specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(3) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.

(4) The person verifying the pleading shall also furnish an affidavit in support of his pleadings."

13. The first decision on this issue is by a Constitution Bench in *T.M. Jacob v. C. Poulouse* [*T.M. Jacob v. C. Poulouse*, (1999) 4 SCC 274] . In the said case, the returned candidate was defending an election petition filed against him on the ground of non-compliance with the requirements under Section 81(3) of the Act. This Court, after going through the difference in the legislative intent of Sections 81 and 83 of the Act, observed that non-compliance with the requirements of the former provides for an automatic dismissal of an election petition under Section 86 of the Act, and non-compliance with the latter is a curable defect and would not merit dismissal at the threshold. In this light, this Court observed that : (*T.M. Jacob case* [*T.M. Jacob v. C. Poulouse*, (1999) 4 SCC 274] , SCC p. 291, para 38)

"38. ... 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* [*Murarka Radhey Shyam Ram Kumar v. Roop Singh Rathore*, 1963 SCC OnLine SC 129 : (1964) 3 SCR 573 : AIR 1964 SC 1545] and *Subbarao* [*Subbarao v. Election Tribunal*, 1964 SCC OnLine SC 168 : 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."

14. In *Siddeshwar* [*G.M. Siddeshwar v. Prasanna Kumar*, (2013) 4 SCC 776 : (2013) 2 SCC (Civ) 715] , the matter came up before a three-Judge Bench of this Court by way of a reference [*G.M. Siddeshwar v. Prasanna Kumar*, (2013) 4 SCC 799] . When the matter was placed before a two-Judge Bench, it was contended, relying upon *P.A. Mohammed Riyas v. M.K. Raghavan* [*P.A. Mohammed Riyas v. M.K. Raghavan*, (2012) 5 SCC 511] , that an election petitioner has to file Form 25 affidavit in support of the corrupt practice allegation, in addition to the usual verifying affidavit which forms an integral part of the election petition. On the other hand, the two-Judge Bench was



also apprised of judgments to the contrary which held that not filing of the affidavit is a curable defect. In order to give quietus to the issue, the matter was referred to a Bench of three Judges. After relying on various precedents, the three-Judge Bench in Siddeshwar [G.M. Siddeshwar v. Prasanna Kumar, (2013) 4 SCC 776 : (2013) 2 SCC (Civ) 715] observed as under : (Siddeshwar case [G.M. Siddeshwar v. Prasanna Kumar, (2013) 4 SCC 776 : (2013) 2 SCC (Civ) 715] , SCC pp. 781-82, 785-86, 788 & 792, paras 1-2, 22-23, 25 & 37-38)

"1. ... The principal question of law raised for our consideration is whether, to maintain an election petition, it is imperative for an election petitioner to file an affidavit in terms of Order 6 Rule 15(4) of the Civil Procedure Code, 1908 in support of the averments made in the election petition in addition to an affidavit (in a case where resort to corrupt practices have been alleged against the returned candidate) as required by the proviso to Section 83(1) of the Representation of the People Act, 1951. In our opinion, there is no such mandate in the Representation of the People Act, 1951 and a reading of P.A. Mohammed Riyas v. M.K. Raghavan [P.A. Mohammed Riyas v. M.K. Raghavan, (2012) 5 SCC 511] , which suggests to the contrary, does not lay down correct law to this limited extent.

2. Another question that has arisen is that if an affidavit filed in support of the allegations of corrupt practices of a returned candidate is not in the statutory Form 25 prescribed by the Conduct of Elections Rules, 1961, whether the election petition is liable to be summarily dismissed. In our opinion, as long as there is substantial compliance with the statutory form, there is no reason to summarily dismiss an election petition on this ground. However, an opportunity must be given to the election petitioner to cure the defect. Further, merely because the affidavit may be defective, it cannot be said that the petition filed is not an election petition as understood by the Representation of the People Act, 1951.

22. A plain reading of Rule 15 suggests that a verification of the plaint is necessary. In addition to the verification, the person verifying the plaint is "also" required to file an affidavit in support of the pleadings. Does this mean, as suggested by the learned counsel for Siddeshwar that Prasanna Kumar was obliged to file two affidavits—one in support of the allegations of corrupt practices and the other in support of the pleadings?

23. A reading of Section 83(1)(c) of the Act makes it clear that what is required of an election petitioner is only that the verification should be carried out in the manner prescribed in CPC. That Order 6 Rule 15 requires an affidavit "also" to be filed does not mean that the verification of a plaint is incomplete if an affidavit is not filed. The affidavit, in this context, is a stand-alone document.

25. It seems to us that a plain and simple reading of Section 83(1)(c) of the Act clearly indicates that the requirement of an additional affidavit is not to be found therein. While the requirement of "also" filing an affidavit in



support of the pleadings filed under CPC may be mandatory in terms of Order 6 Rule 15(4)CPC, the affidavit is not a part of the verification of the pleadings—both are quite different. While the Act does require a verification of the pleadings, the plain language of Section 83(1)(c) of the Act does not require an affidavit in support of the pleadings in an election petition. We are being asked to read a requirement that does not exist in Section 83(1)(c) of the Act.

* * *

37. A perusal of the affidavit furnished by Prasanna Kumar ex facie indicates that it was not in absolute compliance with the format affidavit. However, we endorse the view of the High Court that on a perusal of the affidavit, undoubtedly there was substantial compliance with the prescribed format. It is correct that the verification was also defective, but the defect is curable and cannot be held fatal to the maintainability of the election petition.

38. Recently, in Ponnala Lakshmaiah v. Kommuri Pratap Reddy [Ponnala Lakshmaiah v. Kommuri Pratap Reddy, (2012) 7 SCC 788] the issue of a failure to file an affidavit in accordance with the prescribed format came up for consideration. This is what this Court had to say : (SCC p. 802, para 28)

'28. ... The format of the affidavit is at any rate not a matter of substance. What is important and at the heart of the requirement is whether the election petitioner has made averments which are testified by him on oath, no matter in a form other than the one that is stipulated in the Rules. The absence of an affidavit or an affidavit in a form other than the one stipulated by the Rules does not by itself cause any prejudice to the successful candidate so long as the deficiency is cured by the election petitioner by filing a proper affidavit when directed to do so.'

We have no reason to take a different view. The contention urged by Siddeshwar is rejected."

15. More recently, in A. Manju v. Prajwal Revanna [A. Manju v. Prajwal Revanna, (2022) 3 SCC 269 : (2022) 2 SCC (Civ) 95] , this Court dealt with the same question as to whether an election petition containing an allegation of corrupt practice but not supported by an affidavit in Form 25, is liable to be dismissed at the threshold. This Court had observed : (SCC p. 279, para 26)

"26. However, we are not persuaded to agree with the conclusion arrived at by the High Court that the non-submission of Form 25 would lead to the dismissal of the election petition. We say so because, in our view, the observations made in Ponnala Lakshmaiah case [Ponnala Lakshmaiah v. Kommuri Pratap Reddy, (2012) 7 SCC 788] which have received the imprimatur of the three-Judge Bench in G.M. Siddeshwar case [G.M. Siddeshwar v. Prasanna Kumar, (2013) 4 SCC 776 : (2013) 2 SCC (Civ) 715] , appear not to have been appreciated in the correct perspective. In fact, G.M. Siddeshwar case [G.M. Siddeshwar v. Prasanna



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Kumar, (2013) 4 SCC 776 : (2013) 2 SCC (Civ) 715] , has been cited by the learned Judge to dismiss the petition. If we look at the election petition, the prayer clause is followed by a verification. There is also a verifying affidavit in support of the election petition. Thus, factually it would not be appropriate to say that there is no affidavit in support of the petition, albeit not in Form 25. This was a curable defect and the learned Judge trying the election petition ought to have granted an opportunity to the appellant to file an affidavit in support of the petition in Form 25 in addition to the already existing affidavit filed with the election petition. In fact, a consideration of both the judgments of the Supreme Court referred to by the learned Judge i.e. Ponnala Lakshmaiah [Ponnala Lakshmaiah v. Kommuri Pratap Reddy, (2012) 7 SCC 788] as well as G.M. Siddeshwar [G.M. Siddeshwar v. Prasanna Kumar, (2013) 4 SCC 776 : (2013) 2 SCC (Civ) 715] , ought to have resulted in a conclusion that the correct ratio in view of these facts was to permit the appellant to cure this defect by filing an affidavit in the prescribed form."

(emphasis supplied)

16. The position of law that emerges from the aboveresferred 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.

17. In the instant case, the election petition contained an affidavit and also a verification. In this very affidavit, the election petitioner has sworn on oath that the paragraphs where he has raised allegations of corrupt practice are true to the best of his knowledge. Though there is no separate and an independent affidavit with respect to the allegations of corrupt practice, there is substantial compliance of the requirements under Section 83(1)(c) of the Act.

18. We are in agreement with the conclusion of the High Court that there is substantial compliance of the requirements under Section 83(1)(c) of the Act and this finding satisfies the test laid down by this Court in Siddeshwar [G.M. Siddeshwar v. Prasanna Kumar, (2013) 4 SCC 776 : (2013) 2 SCC (Civ) 715] . Even the subsequent decision of this Court in Revanna [A. Manju v. Prajwal Revanna, (2022) 3 SCC 269 : (2022) 2 SCC (Civ) 95] supports the final conclusion arrived at by the High Court."

6. Learned counsel for respondent no. 1 further submits that the election petition was filed strictly, as per relevant provisions of law, and since evidence is not required to be pleaded, therefore, minor details were not mentioned in the election



petition, which can be supplied through evidence. He further submits that hearing of election petition is at an advance stage, as plaintiff's evidence is over and now it is defendant's turn to lead evidence.

7. In the case of *Popat and Kotecha Property v. State Bank of India Staff Association*, reported as 2005 (7) SCC 510, Hon'ble Supreme Court considered and discussed the case law on the point. Relevant extract of the said judgment is reproduced below: -

14. In *Saleem Bhai v. State of Maharashtra* [(2003) 1 SCC 557] it was held with reference to Order 7 Rule 11 of the Code that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Order 7 Rule 11 of the Code, the averments in the plaint are the germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage.

15. In *I.T.C. Ltd. v. Debts Recovery Appellate Tribunal* [(1998) 2 SCC 70] it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 of the Code.

16. The trial court must remember that if on a meaningful and not formal reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise the power under Order 7 Rule 11 of the Code taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, it has to be nipped in the bud at the first hearing by examining the party searchingly under Order 10 of the Code. (See *T. Arivandandam v. T.V. Satyapal* [(1977) 4 SCC 467] .)

17. It is trite law that not any particular plea has to be considered, and the whole plaint has to be read. As was



observed by this Court in *Roop Lal Sathi v. Nachhattar Singh Gill* [(1982) 3 SCC 487] only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.

18. In *Raptakos Brett & Co. Ltd. v. Ganesh Property* [(1998) 7 SCC 184] it was observed that the averments in the plaint as a whole have to be seen to find out whether clause (d) of Rule 11 of Order 7 was applicable.

19. There cannot be any compartmentalisation, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities.

20. Keeping in view the aforesaid principles the reliefs sought for in the suit as quoted supra have to be considered. The real object of Order 7 Rule 11 of the Code is to keep out of courts irresponsible law suits. Therefore, Order 10 of the Code is a tool in the hands of the courts by resorting to which and by searching examination of the party in case the court is prima facie of the view that the suit is an abuse of the process of the court in the sense that it is a bogus and irresponsible litigation, the jurisdiction under Order 7 Rule 11 of the Code can be exercised.

21. Order 6 Rule 2(1) of the Code states the basic and cardinal rule of pleadings and declares that the pleading has to state material facts and not the evidence. It mandates that every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved.

22 [Ed. : Para 22 corrected vide Official Corrigendum No. F.3/Ed.B.J./92/2005 dated 22-9-2005.] . There is distinction between "material facts" and "particulars". The words "material facts" show that the facts necessary to formulate a complete cause of action must be stated. Omission of a single material fact leads to an incomplete cause of action and the statement or plaint becomes bad. The distinction which has been made between "material facts" and "particulars" was brought by Scott, L.J. in *Bruce v. Odhams Press Ltd.* [(1936) 1 KB 697 : (1936) 1 All ER 287 (CA)]



23. Rule 11 of Order 7 lays down an independent remedy made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The law ostensibly does not contemplate at any stage when the objections can be raised, and also does not say in express terms about the filing of a written statement. Instead, the word “shall” is used clearly implying thereby that it casts a duty on the court to perform its obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of Rule 11, even without intervention of the defendant. In any event, rejection of the plaint under Rule 11 does not preclude the plaintiffs from presenting a fresh plaint in terms of Rule 13.

24. The above position was highlighted in *Sopan Sukhdeo Sable v. Asstt. Charity Commr.* [(2004) 3 SCC 137]”

8. Legal position under Order 7 Rule 11 CPC was further summarized in the case of *Eldeco Housing & Industries Limited v. Ashok Vidyarthi*, reported as 2024 (11) SCC 503. Relevant extract of the said judgment is reproduced below: -

“**15.** It was not disputed at the time of hearing that pleadings in the earlier suits or documents which are sought to be referred to by Respondent 1 i.e. MoU dated 15-4-1998 and the agreement dated 2-9-1998 are not part of the record before the trial court.

16. In *Kamala v. K.T. Eshwara Sa* [*Kamala v. K.T. Eshwara Sa*, (2008) 12 SCC 661] , this Court opined that for invoking clause (d) of Order 7 Rule 11CPC, only the averments in the plaint would be relevant. For this purpose, there cannot be any addition or subtraction. No amount of evidence can be looked into. The issue on merits of the matter would not be within the realm of the Court at that stage. The Court at that stage would not consider any evidence or enter a disputed question of fact of law. Relevant paragraphs thereof are extracted below: (SCC pp. 668-69, paras 21-25)

“21. Order 7 Rule 11(d) of the Code has limited application. It must be shown that the suit is barred under any law. Such a conclusion must be drawn from the averments made in the plaint. Different clauses in Order 7 Rule 11, in our opinion, should not be mixed up. Whereas in a given case, an application for rejection of the plaint may be filed on more than one ground specified in various sub-clauses thereof, a clear finding to that effect must be arrived at. What would be relevant for invoking clause (d) of Order 7 Rule 11 of the Code are the averments made in the plaint. For that purpose, there cannot be any addition or subtraction. Absence of



jurisdiction on the part of a court can be invoked at different stages and under different provisions of the Code. Order 7 Rule 11 of the Code is one, Order 14 Rule 2 is another.

22. For the purpose of invoking Order 7 Rule 11(d) of the Code, no amount of evidence can be looked into. The issues on merit of the matter which may arise between the parties would not be within the realm of the court at that stage. All issues shall not be the subject-matter of an order under the said provision.

23. The principles of res judicata, when attracted, would bar another suit in view of Section 12 of the Code. The question involving a mixed question of law and fact which may require not only examination of the plaint but also other evidence and the order passed in the earlier suit may be taken up either as a preliminary issue or at the final hearing, but, the said question cannot be determined at that stage.

24. It is one thing to say that the averments made in the plaint on their face discloses no cause of action, but it is another thing to say that although the same discloses a cause of action, the same is barred by a law.

25. The decisions rendered by this Court as also by various High Courts are not uniform in this behalf. But, then the broad principle which can be culled out therefrom is that the court at that stage would not consider any evidence or enter into a disputed question of fact or law. In the event, the jurisdiction of the court is found to be barred by any law, meaning thereby, the subject-matter thereof, the application for rejection of plaint should be entertained."

17. Similar was the view expressed in Shakti Bhog Food Industries Ltd. v. Central Bank of India [Shakti Bhog Food Industries Ltd. v. Central Bank of India, (2020) 17 SCC 260 : (2021) 4 SCC (Civ) 286 : 2020 INSC 413] and Srihari Hanumandas Totala v. Hemant Vithal Kamat [Srihari Hanumandas Totala v. Hemant Vithal Kamat, (2021) 9 SCC 99 : (2021) 4 SCC (Civ) 489 : 2021 INSC 387] .

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 [Dahiben v. Arvindbhai Kalyanji Bhanusali, (2020) 7 SCC 366 : (2020) 4 SCC (Civ) 128 : 2020 INSC 450] . Relevant parts of para 23 thereof are extracted below: (SCC pp. 377-79)

"23. to 23.1.***

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.

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 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."

19. The same view was reiterated in *Geetha v. Nanjundaswamy* [*Geetha v. Nanjundaswamy*, (2024) 14 SCC 390 : 2023 SCC OnLine SC 1407 : 2023 INSC 964] ."

9. Hon'ble Supreme Court has consistently held that rejecting a plaint under Order 7 Rule 11 of Civil Procedure Code is a "drastic" & "extreme" power. Because it terminates a suit at the threshold without a full trial, courts are mandated to exercise



the power with extreme caution and never in a routine or mechanical manner. The court must read the plaint as a whole and assume all averments are true. The allegations must be examined clearly to see, if they disclose a valid right to sue. The court cannot go into disputed question of facts or look at the defence at this stage. When deciding, if the plaint is legally barred (e.g. 'barred by limitation'), court inquiry has to be confined to the averments made in the plaint and the contents of accompanying documents. Defendant's written statement or external evidence cannot be used to reject a plaint. If the issue requires an investigation into disputed facts, it becomes a mixed question of law and fact, and in such cases, plaint cannot be rejected summarily at the threshold. In cases, filed under Clause (b) & (c) of Rule 11 Order 7 CPC, the court must first grant time to the plaintiff to correct the valuation or to supply the requisite stamp paper, and only if plaintiff fails to rectify the deficiency within the stipulated time, only then the plaint can be rejected.

10. Petitioner sought rejection of plaint only on the ground that the affidavit filed with election petition was not as per requirement of Rule 94A of Conduct of Elections Rules, 1961; in view of judgment rendered by Hon'ble Supreme Court in the case of *Thangjam Arunkumar (supra)*, defect, if any, in the affidavit is curable and the court may



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grant opportunity to the election petitioner to file necessary affidavit, therefore, this Court is not inclined to interfere with the order dated 28.01.2026 passed by Prescribed Authority, as affirmed by learned 1st Additional District Judge, Haridwar vide judgment dated 15.05.2026.

11. In view of the above discussion, the writ petition fails and is dismissed. However, it shall be open to the petitioner to raise all contentions, including those raised before this Court, before the Prescribed Authority.

(MANOJ KUMAR TIWARI, J.)

Dt: 08.06.2026

Aswal