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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 19.11.2026

Pronouncing orders on : 25.11.2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

OA NO. 937 OF 2026 & OA NO. 938 OF 2026

In ELP No. 40 of 2026

Case QR

CNR:{HCMA011359262026}

D.Elangovan
Age 44, Tamilaga Vetri Kazhagam
S/o.Duraipandi, Door No.1/50, Agaram, Kazhugar
Kadai, Thirupuvanam Taluk,
Sivagangai District 630 611

..Petitioner(s)

Vs

A.Tamilarasi
Age 50, Dravida Munnetra Kazhagam
W/o.M.Ravikumar, No.1A, Seeniyappa Nagar,
Sangamangalam, Manamadurai,
Sivagangai District

..Respondent(s)

OA No. 937 of 2026

PRAYER: Judge's Summons filed under Oder XIV Rule 8 of O.S. Rules and Rule 3 of the Rules of the Madras High Court Election Petitions, 1967, read

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with Order VI Rule 16 of C.P.C., 1908, to strike out Paragraph Nos.3 to 22 of the Election Petition No.40 of 2026.

OA No. 938 of 2026

PRAYER: Judge's Summons filed under Oder XIV Rule 8 of O.S. Rules and Rule 3 of the Rules of the Madras High Court Election Petitions, 1967, read with Order VII Rule 11(a) & (d) of the C.P.C., 1908, to reject the Election Petition in Election Petition No.40 of 2026.

For Petitioner(s): in both OAs	Mr.B.Arvind Srevatsa
For Respondent(s): in both OAs	Mr.J.Ravindran Senior Counsel for Mr.A.Damodaran

COMMON ORDER

These applications have been filed by the 1st respondent/elected candidate in the Election Petition under Order VI Rule 16 of C.P.C., and Order VII Rule 11(a) & (d) of C.P.C., respectively, for striking out Paragraph Nos.3 to 22 of the Election Petition and to reject the Election Petition.

2.The petitioner in the Election Petition, who is the respondent in these applications, has filed the Election Petition to declare the election of the applicant herein as Member of Legislative Assembly from Manamadurai

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Assembly Constituency in the Tamil Nadu Legislative Assembly General Election, 2026, as void on the ground that the applicant herein has committed corrupt practices within the meaning of Section 123(1) and 123(2) of the Representation of the People Act, 1951 (for the sake of brevity, hereinafter referred to as 'the Act') and consequently to declare the Election Petitioner as duly elected from the Manamadurai Assembly Constituency.

3.The election for the Manamadurai Assembly Constituency was held on 23.04.2026, and the applicant herein secured 69,971 votes and was declared elected as the Member of Legislative Assembly by a margin of 1,208 votes over the nearest rival candidates.

4.The Election Petitioner has filed the Election Petition to declare the election of the applicant herein as void on account of alleged corrupt practices committed by the applicant herein, his agents, workers and persons acting with his consent. The Election Petitioner has also taken a stand that the applicant herein had suppressed material facts relating to his income and that the non-disclosure of his actual income resulted in suppression of vital information to the voters and thereby caused a direct interference with the right of the voters to

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cast their votes in his favour and therefore, there is an undue influence on the part of the applicant herein.

5.The applicant herein has filed OA No.937 of 2026 to strike out Paragraphs 3 to 22 in the Election Petition on the ground that they are vague, unnecessary, vexatious, frivolous and scandalous in nature and if allowed to remain, would prejudice, embarrass and delay the fair trial of the Election Petition.

6.O.A.No.938 of 2026 has been filed to reject the Election Petition on the ground that the Election Petition does not disclose any cause of action within the meaning of Order VII Rule 11(a) of C.P.C., and the Election Petition is also barred by law, being not in compliance with the mandatory requirements under the Act.

7.The learned counsel for the applicant submitted that:

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- Paragraphs 3 to 6 merely contain bare statement and verbatim paraphrase of the statutory provisions without pleading any material fact.

- Insofar as Paragraphs 7 to 12 in the Election Petition are concerned, they contains bribery allegations but do not provide any material facts and are vague, vexatious, frivolous and scandalous.

- Insofar as Paragraphs 13 and 14 are concerned, they do not provide any details and proceeds only on the basis of hearsay.

- Paragraphs 15 and 16 in the Election Petition merely reiterates the legal provisions without adding any material facts or providing specific details.

- Insofar as Paragraphs 17 & 18 of the Election Petition are concerned, the allegations are vague, vexatious and frivolous and it does not *prima facie* make out as to how the alleged non-disclosure caused direct interference with the right of the voters to cast their

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votes or how it materially affected the election and they do not even provide the source of information.

- Insofar as Paragraphs 19 to 23 are concerned, the averments therein are self-serving, baseless and scandalous and merely repeat the legal provision under the Act.

- In view of the above, Paragraphs 3 to 22 in the Election Petition are liable to be struck off.

- The averments made in the Election Petition also do not disclose a cause of action and in the absence of material facts and full particulars not being provided regarding the allegation of bribery, it is also not in compliance with Section 83(1)(b) of the Act.

- The verification affidavit filed under Form 25 also does not comply with Section 83(1) of the Act read with the *proviso* thereto.

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- The allegation regarding undue influence through suppression of income is vague and does not disclose material facts and it does not comply with Section 100(1)(b) read with Section 123(2) or under Section 100(1)(d)(iv) of the Act.

- The Election Petition does not mention the name of even a single voter who received the alleged cash and vague allegations have been made as if money was distributed in several villages without naming the villages, the voters or the person who distributed the money in those villages and there is also no material to even *prima facie* establish that the alleged acts of bribery were committed with the consent of the applicant.

- The present Election Petition, which is not in compliance with Sections 83 and 100 of the Act, is merely a speculative litigation and results in an abuse of process of law.

- The learned counsel for the applicant to substantiate his submissions relied upon various judgments.

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8.Per contra, the learned Senior Counsel appearing on behalf of the Election Petitioner submitted that the present applications can be decided only based on the averments contained in the Election Petition and by examining whether they disclose a triable cause of action satisfying the requirements under the Act.

- The Election Petition specifically pleads the date, time and place where the money was distributed to the voters. The Election Petition also names the eyewitnesses who saw the distribution of money to the voters and the names of the persons who distributed the money.

- The identity of the individual voters who actually received the money is a matter to be established during the trial and it cannot be treated as absence of cause of action for filing the Election Petition.

- The Election Petition, having provided all the necessary particulars, cannot be rejected at the threshold on the issue of consent of the returned candidate and this can be established only by letting in evidence.

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- The non-disclosure of the income of the returned candidate has also been specifically pleaded and necessary particulars have been provided and how far it directly interfered with the free exercise of the electoral right of the voters can be established only at the time of trial.

- The returned candidate intentionally declared a lesser income to give the impression that he came from a humble background and was a first time contestant in the Assembly election, without revealing his actual income and the same constitutes undue influence on the voters, which vitiates the election.

- The learned Senior Counsel appearing on behalf of the Election Petitioner relied upon various judgments to substantiate the stand of the Election Petitioner.

9.This Court has carefully considered the submissions made on either side and also the materials available on record.

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10.When a Court takes up an Election Petition for consideration, it should be in a position to know in exactitude as to what is the corrupt practice alleged against the parties, without leaving any room for doubt as to the nature of such allegation, the parties involved, the date, time and place, so that the party against whom such an allegation is made is in a position to explain or defend himself without giving scope for any speculation. The Court has to keep in mind the provisions under Sections 83(1)(a) and 83 (1)(b) and the proviso thereto of the Act, which play a key role in this regard. These provisions mandates that the Election Petition should contain a concise statement of the material facts on which the Election Petitioner relies upon and it must set-forth full particulars of any corrupt practise, including the names of the parties who are alleged to have committed such corrupt practise and the date and place where such corrupt practise was committed. The particulars relating to the corrupt practise should not be lacking in any respect. When the Court reads the averments made in the Election Petition, it should be in a position to gather every minute detail about the alleged corrupt practise. In view of the same, the Election Petitioner is expected to take extra care and leave no room for doubt while making any allegation of corrupt practise indulged in by the successful candidate.

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11.The Court must also keep in mind the clear distinction between *facta probanda* (the facts required to be proved, which are also called material facts) and *facta probantia* (the facts by means of which they are proved, which are properly understood as evidence). What is expected in the pleadings made in the Election Petition is *facta probanda,* namely, the material facts which are mandatorily required to be pleaded. The Election Petition need not set-out *facta probantia* in its pleadings.

12.When the Court deals with an application filed for rejection of Election Petition, the Court cannot bisect the pleadings into several parts and consider whether each one of them discloses a cause of action. The Court has to consider the Election Petition as a whole. The Court must also assume that the averments made in the petition are true and find out whether those averments disclose a cause of action or a triable issue under Sections 81, 83(1) etc., of the Act.

13.The strict requirement of providing material facts is insisted upon in an Election Petition since an Election Petition is not merely a contest between two parties but becomes a dispute in which the whole constituency is interested.

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Therefore, a larger interest is involved as a result of which the Court has to carefully consider the facts pleaded in the Election Petition and decide whether there are unnecessary pleadings that requires to be struck off and/or whether the material facts pleaded make out a cause of action for filing the Election Petition and satisfies the requirements of law, failing which the Election Petition is liable to be rejected.

14.The above principles of law are now too well settled and therefore, it is not necessary to burden this order by dealing with each and every judgment that was relied upon by both sides, and all those judgments have, in fact, settled the above principles of law.

15.In the case in hand, two separate applications have been filed; for striking out the pleadings and for rejection of the Election Petition and it is left open to the Court to consider both the applications together or independently. If the Court first deals with the application filed under Order VI Rule 16 of C.P.C., for striking off pleadings and decides to strike off certain pleadings, the Court must consider the remaining pleadings and find out whether the Election Petition itself requires to be rejected under Order VII Rule 11 of C.P.C. On the

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other hand, if the Court wants to deal with the application filed for rejection of Election Petition under Order VII Rule 11 of C.P.C., independently, the Court has to consider the Election Petition as a whole and see whether the Election Petition makes out a cause of action and/or is barred by law. The law on this issue was spelt out by the Apex Court in ***Madiraju Venkata Ramana Raju vs. Peddireddigari Ramachandra Reddy and Others*** reported in ***2018 14 SCC 1*** (Paragraph 26).

16.At the outset, this Court is inclined to take up the application filed in O.A.No.938 of 2026 for rejection of the Election Petition. This application has been filed on the ground that the Election Petition does not disclose a cause of action and is barred by law, since material facts and full particulars have not been provided regarding bribery allegations. Apart from that, the allegation of undue influence also does not disclose material facts and does not *prima facie* establish as to how it affected the free exercise of the electoral rights of the voters of the Manamadurai Constituency.

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17.The Election Petitioner, in Paragraphs 7 to 13, has made the following averments with respect to the alleged corrupt practices committed by the applicant herein:

> 7. The Election petitioner further states that on 17.04.2026 at about 2. 20 PM, in seikalathur village situated within the limits of No. 187, Manamadurai Legislative Assembly Constituency, one Mr. Shengiskhan who is a resident of said village personally witnessed distribution of Rs. 1000/- by Mr. K. Kalishwaran, who is the polling agent of the 1st Respondent and with the consent of the 1st Respondent for the purpose of securing votes in favour of the 1st Respondent.
>
> 8. The Election petitioner states that the said person with the consent of the 1st Respondent distributed cash to several voters assembled near water tank in the said village and instructed them to cast their votes in favour of the 1st Respondent belonging to TVK party.
>
> 9. The Election petitioner further states that on 18.04.2026 at about 11.00 A.M, in Thiruppuvanam village situated within the limits of No. 187, Manamadurai Legislative Assembly Constituency, the eye witnesses namely Mr. R. Prabu, is the permanent resident of above village witnessed the distribution of money by Mr. M. Saranraj, who is the polling agent of the 1st Respondent and found said persons canvassing votes in favour of the 1st Respondent in consideration of payment of money with the consent of the 1st Respondent. Mr. R. Prabu, who had witnessed the money distribution for the purpose of inducing votes in favour of the 1st respondent, cited as a witness in this petition and the petitioner will evidence him during the trial.

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10.The Election petitioner further states that on 17.04.2026 at about 2. 20 PM, in seikalathur village situated within the limits of No. 187, Manamadurai Legislative Assembly Constituency, one of the eyewitnesses namely Mr. Shengiskhan, S/o. Ganesan, aged about 38 years, residing at No. No. 597, Seikalathur, (P) (RV), Gurunthangalam, Seikathur, Sibaganga District, bearing EPIC No. THB0301473 and Aadhaar No. 4570 9216 0171, is a permanent resident within limits of No. 187, Manamadurai Legislative Assembly Constituency and he had personally witnessed the distribution of Rs. 1,000/- cash to the voters in the said locality by the supporters and Mr. K. Kalishwaran -both agent of the 1st respondent for the purpose of inducing the voters to cast their votes in favour of the 1st respondent. The said witness had also heard the persons canvassing votes in favour of the 1st respondent in consideration of payment of money and promise of monetary benefits was distributed with the consent and knowledge of the 1st Respondent.

11.The Election petitioner states that said eyewitness namely Mr. R. Prabu, S/o. Rajendran, aged about 43 years, residing at No. 17/11A, Anna Nagar, South Colony, Thirppuvanam, Sivaganga-630611, bearing EPIC No. BDY4137204 and Aadhaar No. 9098 7494 4605 is also a permanent resident within No. 187, Manamadurai Legislative Assembly Constituency and he had personally witnessed the distribution of Rs.1,000/- cash to the voters in the said locality by Mr. M. Saranraj, who is the polling agent of the 1st Respondent and with the consent of the 1st Respondent. The said witness had also witnessed the persons canvassing votes in favour of the 1st respondent in consideration of payment of money and promise of monetary benefits and the said witness will be examined during the trial.

12. The Election petitioner further states that the said person distributed cash to several voters assembled near Water tank in the said village, and

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instructed them to cast their vote in favour of the 1st respondent who belongs to a TVK party, with the consent of the 1st Respondent.

13. The Election Petitioner further submits that the distribution of money was done, by the party cadres and the agents of the First respondent, only with the consent of the First Respondent. The Election Petitioner further submits that 'consent of the First Respondent' cannot be proved by direct evidence. However, the circumstances such as the large scale, systematic distribution of money as a gratification to the voters to vote in favour of the 1st Respondent, by his agents and party people, are forming a complete chain of circumstances, unerringly points out that these corrupt practices were committed only with the consent of the 1st Respondent and excludes every other reasonable hypothesis that there was no consent of the 1st Respondent.

18.Insofar as the allegation of bribery is concerned, a reading of the Election Petition must disclose the following:

(a) The date(s) of commission of each act of bribery;

(b) The place(s) where the act of bribery was committed;

(c) The names of persons who committed the act of bribery;

(d) The names of the persons who received the alleged bribery; and

(e) The facts establishing the consent, knowledge or authority of the returned candidate for the acts of alleged distribution of money.

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19.The averments made in the Election Petition, as extracted *supra*, names two alleged eyewitnesses viz., G.Schengiskhan and R.Prabu. It also names two alleged distributors of money viz., K.Kaleeswaran and M.Saranraj. The further averments is that cash of Rs.1000/- was distributed to the voters. It is further averred that the money was distributed to several voters near a water tank at Seikalathur Village and insofar as Thirppuvanam Village is concerned, the Election Petition does not state where the money was allegedly paid to the voters. Insofar as voters are concerned, the Election Petition does not give the names of any voters who allegedly received the bribe, except by using the terms "voters in the said locality" and "several voters assembled near water tank".

20.The above averments made in the Election Petition as a whole provides the particulars of the date, time, place and the persons by whom the money was distributed, as well as the persons who witnessed the distribution of money. There is also an averment that the persons who distributed the money were the polling agents of the applicant herein and they were canvassing for votes in favour of the applicant.

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21.All the above averments made in the Election Petition satisfy the requirements under Section 83(1)(b) of the Act. The Election Petitioner seeks to establish the allegation of bribery through these facts (*facta probanda*).

22.The identity of the voters who actually received the bribe and the question of whether the distribution was made with the consent of the applicant are matters that can be established only by letting in evidence (*facta probantia)*. These matters needs to be proved during the trial in order to establish the fact in issue, namely, the corrupt practices allegedly committed by the applicant herein, thereby vitiating the election.

23.In the verification affidavit filed along with the Election Petition, the source of information for the averments made in Paragraphs 7 to 13 is also clearly provided. The Election Petition also names the witnesses who are going to be examined viz., G.Schengiskhan and R.Prabu, who are going to speak about the distribution of money to the voters. The Election Petition satisfies the requirement of pleading the primary facts constituting the alleged corrupt practises.

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24.In the light of the above discussion, the Election Petition cannot be rejected under Order VII Rule 11 of C.P.C., either on the ground of lack of cause of action or on the ground that it is barred by law, insofar as the allegations pertaining to the alleged bribery, which is said to constitute a corrupt practise committed by the applicant, is concerned. As a consequence, the averments made in Paragraphs 2 to 16 also do not constitute any vague, unnecessary, vexatious, frivolous or scandalous allegations warranting striking off those averments, as claimed in O.A.No.937 of 2026.

25.The next issue is regarding the alleged suppression of material facts relating to the income of the applicant and whether the same has caused direct interference with the right of the voters to cast their votes in favour of the applicant herein.

26.In the Election Petition, the Election Petitioner states that he came to know from a reliable source that the applicant had suppressed material facts relating to his income in the affidavit filed along with his nomination paper. The Election Petitioner further alleges that the applicant is carrying on business in the name of Miracle Photography and had derived an income approximately of

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Rs.15,00,468/- during the assessment year 2024-25 and had also filed an income tax return disclosing the taxable income derived from the business. However, in the affidavit filed before the returning officer, the applicant is said to have suppressed the said income and falsely declared that he had not earned any income during the preceding five years. Thus, by concealing the income to the extent of Rs.15,00,468/- during the assessment year 2024-25, it is alleged that such suppression of information had directly interfered with the right of the voters to cast their vote in favour of the applicant. According to the Election Petitioner, this constitutes undue influence. The averments in this regard have been made in Paragraphs 17 and 18 of the Election Petition.

27.The allegation in Paragraph 17 expressly states that the information was gathered from a reliable source without disclosing what that source is, either in the petition or in the supporting affidavit. Therefore, this information can, at best, be treated as hearsay from an unnamed informant. In such a scenario, the applicant herein will not even know from which informant these particulars were collected, in order to effectively defend himself in the Election Petition. This unknown informant will suddenly appear before the Court as a

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witness only, at which point of time the applicant will come to know about the so-called informant.

28.Paragraph 18 of the Election Petition makes an assertion that the non-disclosure caused direct interference with the right of the voters to cast their votes. However, it does not state any material fact as to how the alleged non-disclosure of income directly or indirectly interfered with the free exercise of the electoral rights of any of the voters.

29.The requirements under Section 100(1)(d) of the Act is that the non-disclosure of income should have materially affected the election. In other words, if the income of Rs.15,00,468/- had been disclosed, it must be materially averred as to how such disclosure would have changed the voting behaviour of the voters.

30.In short, Paragraphs 17 and 18 of the Election Petition does not contain material facts regarding the source of information or as to how the non-disclosure of income from Miracle Photography directly or indirectly interfered with the free exercise of the electoral right of the voters of the Manamadurai

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Constituency. They also do not disclose how the voters, had they come to know about the alleged non-disclosure, would have been influenced in their voting pattern. These facts do not make out a case for undue influence within the meaning of Section 123(2) of the Act. It is only speculative to presume that, if the voters had access to the income tax return, they would have verified the credentials of the applicant and consequently, would not have voted for the applicant herein.

31.In the light of the above discussion, while dealing with the application filed in O.A.No.937 of 2026, this Court finds that Paragraphs 17 & 18 and a portion of Paragraph 22 requires to be struck off, since they would certainly prejudice, embarrass and delay the fair trial of the Election Petition.

32.In the light of the above finding, it has to be seen whether the deletion of Paragraphs 17 & 18 and a portion of Paragraph 22 will result in the rejection of Election Petition. The answer is not far to seek and it is quite apparent that the Election Petition is not liable to be rejected, since this Court has found that material facts have been pleaded regarding bribery allegations and that the Election Petition, on the face of it, makes out a cause of action and is also not

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barred by law. Therefore, the Election Petition can proceed further with regard to the issue of the alleged commission of corrupt practices in view of the alleged distribution of money as gratification to the voters to vote in favour of the applicant.

33.In the result, these applications are disposed of in the following terms:

(a) The application filed in O.A.No.938 of 2026 stands dismissed.

(b) The application filed in O.A.No.937 of 2026 is partly allowed and Paragraphs 17 & 18 in Election Petition are struck off and the following portion in Paragraph 22 of the Election Petition is also struck off.

> Even if only 650 voters found that the 1st Respondent is an income tax assesse, they would have verified his credentials and would not have voted for the 1st Respondent. Hence the election of the 1st Respondent is materially affected due to non-disclosure.

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(c) There shall be a direction to the Election Petitioner to file the amended Election Petition, after deleting the portions mentioned in (b), within a period of two weeks from the date of receipt of copy of this order.

(d) There shall be a direction to the applicant to file the counter in the Election Petition, within a period of four weeks from the date of service of the amended Election Petition to the counsel appearing for the applicant/1st respondent.

(e) Only *prima facie* observations/finding have been rendered in these applications and it will absolutely not have any bearing while dealing with the main Election Petition on merits. No Costs.

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Index: Yes
Speaking order
Neutral Citation: Yes

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