



A.F.R.

Reserved On: 26.08.2025

Delivered On: 16.09.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT – C No. - 21174 of 2025

Veerpal

.....Petitioners(s)

Versus

Prabhat Tomar And 13
Others

.....Respondents(s)

Counsel for Petitioners(s)

: Abhijeet Mishra, Nipun Singh

Counsel for Respondent(s)

: Ashish Kumar Singh, Birendra Kumar

Court No. - 9

HON'BLE MANISH KUMAR NIGAM, J.

1. This petition has been filed challenging the order dated 31.05.2025 passed by Additional District Judge, Court No. 1, Muzaffarnagar in Election Petition No. 2 of 21 (Prabhat Tomar Vs. Veerpal and others) rejecting an application under Order VII Rule 11 of C.P.C. filed by the petitioner.

2. Brief facts of the case are that elections for the post of Member Zila Panchayat were held in State of U.P. on 19.04.2021. The counting started on 02.05.2021 and was completed on 03.05.2021. In the counting, the present petitioner was declared elected as member Zila Panchayat for Ward No. 42 Zila Panchayat, Muzaffarnagar. Respondent No. 1, who was declared second in the aforesaid election filed an election petition being Election Petition No. 2 of 2021 (Prabhat Tomar Vs. Veerpal and others) under Section 27 sub-clause 2 (a) (b) of U.P. Kshettra Panchayat and Zila Panchayat Act, 1961

(hereinafter referred as "Act, 1961") read with Rule 4 of Uttar Pradesh Zila Panchayats (Settlement of Election Disputes relating to Membership) Rules, 1994 (hereinafter referred as "Rules, 1994") on various grounds which are given in the election petition itself, which has been annexed as Annexure No. 2 of the petition. Petitioner, who was the elected member of Ward moved an application under Order VII Rule 11 of C.P.C. for rejecting the election petition, which was contested by the election petitioner-respondent No. 1 by filing objections. The Additional District Judge, Court No. 1, Muzaffarnagar by the order dated 31.05.2025 rejected the application filed by the petitioner under Order VII Rule 11 of C.P.C. Hence the present writ petition.

3. Learned counsel appearing for the petitioner contended that the application under Order VII Rule 11 of C.P.C. was filed mainly on two grounds firstly, that the Rules required that the election petition has to be filed by the election petitioner in-person and in case, there are more than one election petitioners then by one of the election petitioners and secondly, on the ground that from the perusal of the election petition, it is apparent that the grounds taken by the election petitioner are wholly vague and the election petitioner has failed to plead the material particulars. It has been contended by counsel for the petitioner that election petition was filed on 02.06.2021 and from the Munsrim Report, it is apparent that the said petition was filed by the petitioner through Shri Netrapal Singh, Advocate. The counsel for the petitioner has invited attention of the Court to the Munsrim Report dated 02.06.2021 which is annexed at page No. 72 A of the petition and the same is quoted as under:

"श्रीमानजी,

यह प्रार्थना पत्र चुनाव याचिका श्री नेत्रपाल सिंह एड० ने प्रस्तुत किया है। प्रार्थी द्वारा ग्रीष्म कालीन अवकाश होने के कारण रूल 13 का प्रार्थना पत्र प्रस्तुत नहीं किया है। कोर्ट फीस की छायाप्रति दाखिल की गयी है। आख्या सेवा में सादर प्रस्तुत है।

ह०अपठनीय

02.06.2021"

4. Learned counsel for the petitioner referred to paragraph Nos. 8 to 14 of the election petition and contended that from the perusal of the aforesaid paragraphs, it is apparent that no details as to the votes (ballot papers) which were alleged to be casted in favour of the election petitioner, but the credit of which has been given to the present petitioner has been given. It has also been contended that by means of the present election petition, election petitioner wants a roving inquiry which is not permissible. Counsel for the petitioner relied upon the judgment in case of **Devendra Yadav Vs. District Election Officer/ District Magistrate, Mau** reported in **2011(9) ADJ 219**, wherein this Court has held while considering an election petition arising from Uttar Pradesh Zila Panchayats (Settlement of Election Disputes relating to Membership) Rules, 1994, that the election petition has to be presented by election petitioner personally.

5. *Per contra*, learned counsel for the respondents submitted that election petition was filed during COVID period i.e. on 02.06.2021. It has also been submitted by counsel for the respondents that because of COVID conditions, certain restrictions were imposed. During COVID period, the parties were permitted to file the election petition etc. through virtual mode also. It has also been submitted by counsel for the respondents that in fact, the election petitioner filed election petition by both the modes. It was filed physically through an Advocate on 02.06.2021 and the said petition was also filed through email along with an application under Rule 13 of General Rules (Civil), 1957. It has been submitted by counsel for the respondents that the petition which was presented physically was submitted through counsel and not by the petitioner but the petition, which was submitted virtually was submitted by the election petitioner through email, which was sent by the election petitioner from his email I.D. and when the matter was taken up on 02.06.2021, the election petitioner was also present through video conferencing and this fact of presence of the election petitioner along with his Advocate was noted by the court in its order dated 02.06.2021,

which is at page No. 183 of the petition and the same is quoted as under:-

"प्राथर्णी/विद्वान अधिवक्ता को प्रार्थनापत्र अंतर्गत नियम १३, सामान्य नियम दीवानी पर वर्चुअल कोर्ट के माध्यम से सुना।

उक्त प्रार्थनापत्र इन कथनों के साथ प्रस्तुत किया गया है कि याची ने संलग्न चुनाव याचिका अंतर्गत नियम-४ उ०प्र० क्षेत्र पंचायत तथा जिला पंचायत अधिनियम १९६१. वार्ड नं० ४२ जिला पंचायत मुजफ्फरनगर के सदस्य पद के चुनाव परिणाम दिनांक ०३.०५.२०२१ को चुनौती देने के संबंध में प्रस्तुत की है। उक्त अधिनियम १९६१ के अनुसार चुनाव परिणाम घोषित होने के उपरांत ३० दिन के अंदर चुनाव याचिका प्रस्तुत करनी है, क्योंकि माननीय उच्च न्यायालय ने दिनांक ०४.०६.२०२१ तक न्यायालय में ग्रीष्मकालीन अवकाश घोषित किया हुआ है तथा याचिका प्रस्तुत करने की नियत अवधि ३० दिन आज दिनांक ०२.०६.२०२१ को समाप्त हो रही है। याची की ओर से नियम १३, सामान्य नियम दीवानी का लाभ देते हुए याचिका को दर्ज किए जाने की याचना की गयी है। सुना तथा संलग्न वाचिका का अवलोकन किया। नियम १३. सामान्य नियम दीवानी के प्राविधान के प्रकाश में यदि किसी आदेश का पारित किया जाना अतिआवश्यक हो, तो न्यायालय अवकाश के दिन भी ऐसा आदेश पारित करने से इंकार नहीं करेगी।

अतः प्रार्थनापत्र में किए गए कथनों के प्रकाश में याची को नियम-१३. सामान्य नियम दीवानी का लाभ दिया जाना न्यायोचित है। अतः प्रार्थनापत्र स्वीकार किए जाने योग्य है।

आदेश

प्रार्थनापत्र अंतर्गत नियम १३, सामान्य नियम दीवानी स्वीकार किया जाता है। याची को चुनाव याचिका प्रस्तुत किए जाने की अनुमति प्रदान की जाती है। कार्यालय नियमानुसार मुंसरिम आख्या अंकित करते हुए संलग्न याचिका को दर्ज करे।"

6. It has also been submitted by counsel for the respondents that from the opening words of the order dated 02.06.2021, it is apparent that the election petitioner was present along with his counsel when the matter was heard virtually by the court and the leave as contemplated under Rule 13 of General Rules (Civil), 1957 was granted and permission was given to the petitioner to file the election petition and as such the requirement of the Rule for presence of the petitioner personally at the time of presentation of petition has been substantially complied.

7. Counsel for the respondents also submitted that in a petition filed under the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Act, 1961 there is no requirement of pleading material particulars as required

under the Representation of People Act, 1951 and the only requirement is that the grounds of challenge have to be mentioned in the election petition. It has been further submitted that apart from the grounds which were referred by counsel for the petitioner, the election petitioner has also taken a ground that the result was declared on 03.05.2021 in which the respondent No. 1 was declared as elected but subsequently, without any notice to the election petitioner, an application for recounting of votes filed by the present petitioner was entertained and recounting was conducted in absence of the election petitioner and the present petitioner was declared elected. It is further contended by counsel for the respondents even assuming as contended by counsel for the petitioner that material particulars regarding the averments as contained in paragraph numbers 8 to 14 are not pleaded but definitely the election petitioner has a cause of action for maintaining the election petition on the ground of recounting of votes for which sufficient pleading has been made by the election petitioner in subsequent paragraphs of the election petition.

8. It has been contended by counsel for the respondents that since the election petitioner has a cause of action for the grounds taken by the election petitioner, the application under Order VII Rule 11 of C.P.C. cannot be allowed, as the plaint/election petition cannot be rejected in part, it can be allowed in whole or has to be rejected.

9. Before considering the rival submissions, it will be necessary to look into the statutory provisions relied upon by both the parties.

10. Section 27 of the Uttar Pradesh Kshettra Panchayat and Zila Panchayat Act, 1961 provides for resolution of disputes as to the membership or disqualification of a member of Zila Panchayat. Section 27 of the Act, 1961 is quoted as under:-

"27. Disputes as to membership or disqualifications – (1) If any dispute arises as to whether a particular person is a member of the Zila Panchayat under [clause (a)]7 of Section 18, the dispute shall be referred in the manner prescribed to the State Government and the decision of the State Government shall be final and binding.

*(2) If a dispute arises as to whether a person –
(a) has been lawfully chosen [x x x]1 a member of a Zila Panchayat
under Section 18; or*

*b) has ceased to remain eligible for being chosen [x x x]2 a member [x x
x]3 of the Zila Panchayat for the purposes of Section 20; or*

*(c) has become disqualified to be Adhyaksha or 4[x x x] for the purposes
of Section 19.*

*the dispute shall be referred in the manner prescribed to the Judge whose
decision shall be final and binding."*

11. In exercise of powers under Section 27 of the Act, 1961 read with sub-Section 1 and clauses (a) (b) of sub-Section 2 of Section 27 of the Act, 1961, Uttar Pradesh Zila Panchayats (Settlement of Election Disputes relating to Membership) Rules, 1994 have been framed by the State Government. The aforesaid Rules are in form of special enactment providing for a complete procedure for the resolution of election dispute. Rule 4 of Rules, 1994 provides for a procedure of raising dispute under Section 27(2)(a) and (b) of the Act, 1961. Rule 4 of Rules, 1994 is quoted as under:

"4. Manner of raising disputes under Section 27(2)(a) and (b).-(1) If a dispute arises as to whether a person has been lawfully chosen under clause (b) of sub-section (1) of Section 18 the matter shall be referred by means of a written petition by any person who could legally be a candidate at such choosing to the Judge within thirty days of the date of choosing. (2) If a dispute arises as to whether a person has ceased to remain eligible for being chosen a member, the matter shall in the manner as provided in sub-rule (1) be raised by any person whose name is registered as an elector in the Electoral roll for the territorial constituency of the concerned Zila Panchayat. (3) Every petition under sub-rule (1) or sub-rule (2) shall be presented in person by the petitioner, and if there are more than one petitioners by any or all of them."

12. Learned counsel for the petitioner submitted relying upon the judgment of this Court in case of Devendra Yadav Vs. District Election Officer/ District Magistrate Mau (supra) that sub-Rule 3 of Rule 4 of

Rules, 1994 provides that every petition under the sub-Rule 1 or sub-Rule 2 shall be presented in person by the petitioner and if, there are more than one petitioners then by any or all of them. It has been further contended that presentation in person has been held to be mandatory in case of Devendra Yadav (supra) and in case, the petition is not presented in person by the petitioner, then the petition has to be rejected and in the present case from the record, it is apparent that election petition was not presented by the petitioner in person and therefore, the same was liable to be rejected and the court below has erroneously rejected the application filed by the petitioner under Order VII Rule 11 of C.P.C., which was filed on the ground that the presentation of the election petition was not in accordance with sub-Rule 3 of Rule 4 of Rules, 1994. It has also been submitted by counsel for the petitioner that though, the case in Devendra Yadav (supra) related to the election for the post of Pramukh of Kshettra Panchayat but the Rule in question in case of Pramukh of Kshettra Panchayat is Rule 32 of Uttar Pradesh Kshettra Panchayats (Election of Pramukhs and Up-Pramukhs and Settlement of Election Disputes) Rules, 1994 is *pari materia* with the sub-Rule 3 of Rule 4 of Rules, 1994 and therefore, the judgment in case of Devendra Yadav will squarely apply to the present case.

13. Learned counsel for the respondents though, admitted that the law laid down in case of Devendra Yadav (supra) will also apply to the election for the post of Member Zila Panchayat, which are governed by Rules, 1994 but further submitted that the elections for the post of Member Zila Panchayat were held in the month of May, 2021 and the election petition was filed in June, 2021 during the COVID period. The COVID period was an extraordinary situation and taking note of the said position, certain relaxations were granted by the Hon'ble Supreme Court as well as by this Court regarding conduct of judicial proceedings. It has been submitted by counsel for the respondents that at the time when the Rules, 1994 were framed, the presentation of election petition was only through physical mode as at that time, there was no concept of e-filing of petitions, which came later on and taking note of the extraordinary

situation because of the COVID, the Supreme Court has issued direction permitting e-filing of the petitions. Certain restriction were also imposed regarding presence of the parties as well as Advocates during the COVID period in courts and Tribunals.

14. Learned counsel for the petitioner submitted that it is correct that during COVID period, certain restrictions were imposed by this Court and in compliance thereof certain guidelines were issued by the District Judge regarding presentation and conduct of the proceedings before the District Court and other Tribunals. Learned counsel for the petitioner referred to the COVID guidelines dated 22.04.2021 annexed as Annexure No. 3 to the writ petition and submitted that even though, during COVID restriction period, the presence of litigant and Advocate were prohibited but as per the guidelines prevailing on the date of filing of the election petition, litigant/ party entry was permissible subject to the permission granted by the District Judge. Learned counsel for the petitioner relied upon guideline No. 11 issued by this Court on 22.04.2021, wherein it has been provided that District Judge may allow entry of only such litigant/ party, whose presence is required in the court premises. Guideline No. 11 of the Guidelines dated 22.04.2021 are quoted as under:-

"11. The Litigants entry in the Court premises be strictly restricted District Judge may allow entry of only such litigant/parties whose presence is required in the Court premises ."

15. It has been further contended by counsel for the petitioner that from the facts of the present case, it is apparent that no such application was ever made by the respondent seeking permission from the District Judge to appear in person for presenting the election petition. It has also been contended by learned counsel for the petitioner that COVID guidelines were issued on the administrative side by this Court and they cannot override the statutory mandate of sub-Rule 3 of Rule 4 of Rules, 1994, especially, when in the guidelines itself, it has been provided that District Judge may permit a litigant to appear where his presence is necessary. Learned counsel for the petitioner further submitted that in

case of Devendra Yadav (supra) this Court has held that the election petition has to be presented by the petitioner in person and in case, the same is not done, the election petition has to be rejected.

16. *Per contra*, learned counsel for the respondents submitted that there is no dispute to the proposition of law as laid down by this Court in case of Devendra Yadav (supra) and also to the fact that under certain circumstances, permission can be granted by the District Judge to appear in person but at the same time by the guidelines, filing by both the modes i.e. physical filing as well as e-filing was permitted and in the present case, the petitioner has presented his petition by both the modes. From the record, it is apparent that at the time when the petition, which was filed virtually by the petitioner was taken up by the District Judge, the petitioner was present along with his Advocate virtually, which is noted in the order itself and there has been a sufficient compliance of mandate of sub-Rule 3 of Rule 4 of Rules, 1994.

17. Learned counsel for the respondents relied upon the order dated 02.06.2021, which has already been quoted above to submit that when the matter was taken up, virtually by the District Judge, presence of petitioner was noted in the order by the District Judge itself.

18. Considering the respective arguments of the counsel, there is no dispute to the proposition of law as submitted by counsel for the petitioner that in view of the judgment in case of Devendra Yadav (supra) the requirement under sub-Rule 3 of Rule 4 of Rules, 1994 for presentation of the petition in person by the election petitioner is mandatory and in case, the said condition is not fulfilled by the election petitioner i.e. election petition is not presented in person by the election petitioner, the election petition is liable to be dismissed but considering the facts of the case as well as that the extraordinary situation prevailing due to COVID pandemic, it was permitted that the election petition can be filed by two modes i.e. physical presentation as well as presentation through e-mode, I am of the view that in case, the petition is presented through e-mode and when the petition is taken up by the authority (in the

present case by the District Judge) virtually, if the petitioner is virtually present at the time of hearing of the petition that will be sufficient compliance of sub-Rule 3 of Rule 4 of Rules, 1994 for the reason that objective behind the mandatory provision of sub-Rule 3 of Rule 4 of Rules, 1994 is to check that the election petition is not presented by an imposter but a genuine person, who is alive and that it is not frivolous or vexatious. In case of Devendra Yadav (supra) also in paragraph No. 44 of the judgment of this Court has held as under:

"44. In view of the above and the object behind the mandatory provision of Rule 35 (2) of the Rules to check that the election petition is not presented by an imposter but a genuine person who is alive and that it is not frivolous or vexatious, I am of the opinion that irrespective of the fact that the Rules are silent as to the consequence of not presenting the election petition in the manner prescribed, the court has power to dismiss it as not maintainable without compelling the parties to go through the cumbersome process of trial. In such a situation, the court below has not erred in applying the ratio of G.V. Sreerama Reddy (Supra) and in dismissing the election petition as not maintainable on the ground it was not presented by the appellant in person or by his counsel in his presence."

19. In the present case, the petition was filed by both the means i.e. physical mode as well as e-mode. It is true that at the time of physical presentation of the petition, the petitioner was not present, but the petition which was e-filed by the petitioner himself from his own e-mail I.D. and while entertaining the e-petition, District Judge has mentioned the presence of the petitioner virtually and therefore, in my view there is sufficient compliance of sub-Rule 3 of Rule 4 of Rules, 1994 and it cannot be said that the petitioner was not presented personally. The fact that the petitioner was present at the time of presentation of the election petition before the court virtually, has not been denied by counsel for the petitioner. Even in the objections filed by the respondent to the application filed by the petitioner under Order VII Rule 11 of C.P.C. in paragraph Nos. 15 and 16 of the objections, it has been stated by the respondent that when the petition which was filed through e-mode was

heard by the District Judge on 02.06.2021, the election petitioner was present along with his Advocate through virtual mode. Paragraph Nos. 15 and 16 of the objections filed by the respondent are quoted as under:-

"15. यह कि याची की ओर से प्रस्तुत चुनाव याचिका दिनांक 01.06.2021 को श्रीमान जिला जज महोदय मुजफ्फरनगर के ई-मेल कम्प्यूटर सैंटर पर याची की ई-मेल आई०डी० के माध्यम से भेजी गयी थी जो दिनांक 01.06.2021 को बारह बजे के बाद श्रीमान जिला जज महोदय मुजफ्फरनगर के ई-मेल कम्प्यूटर सैंटर पर ऑफिस को प्राप्त हुई थी जिस कारण उस पर सुनवाई Virtual कोर्ट द्वारा दिनांक 01.06.2021 को नहीं की गई थी बल्कि दिनांक 02.06.2021 को की गई थी।

16. यह कि चूंकि दिनांक 01.06.2021 को एवं दिनांक 02.06.2021 को एवं उससे पूर्व कोविड-19 वैश्वक माहमारी के कारण माननीय उच्च न्यायालय के दिशा और निर्देशों के अनुसार न्यायालय द्वारा केवल नये वादों के दायरों की सुनवाई Virtual Court द्वारा ही की जा रही थी और किसी भी अधिवक्ता या वादकारी को न्यायालय में प्रवेश करना वर्जित था। इसलिए दिनांक 01.06.2021 या दिनांक 02.06.2021 को याची प्रस्तुत याचिका को व्यक्तिगत रूप से माननीय न्यायालय के समक्ष प्रस्तुत करने में असमर्थ था, इसलिए याची ने प्रस्तुत याचिका की सुनवाई Virtual Court के माध्यम से किये जाने हेतु प्रस्तुत याचिका को सक्षम न्यायालय माननीय जिला जज महोदय के ई-मेल कम्प्यूटर सैंटर पर अपनी ई-मेल आई०डी० के माध्यम से प्रस्तुत किया था और दिनांक 02.06.2021 को जब प्रस्तुत याचिका की सुनवाई Virtual Court द्वारा की गई थी तो उस समय भी याची अपने अधिवक्ता श्री नेत्रपाल सिंह एडवोकेट व श्री सुशील कुमार एडवोकेट के साथ Virtual Court के द्वारा की गई सुनवाई के समय व्यक्तिगत रूप से उपस्थित था। और इस सम्बन्ध में Virtual Court द्वारा पूर्ण संतुष्टि सुनवाई के समय कर ली गई थी और याची ने दिनांक 02.06.2021 को अपनी ओर से जनरल रूल 13 सामान्य नियम दीवानी से सम्बन्धित प्रार्थना पत्र अपने हस्ताक्षरों से एवं अपने अधिवक्ता श्री नेत्रपाल सिंह एडवोकेट के माध्यम से अपनी ई-मेल आई०डी० के माध्यम से जिला जज मुजफ्फरनगर को प्रेषित कर दिया था जैसा कि माननीय न्यायालय द्वारा आदेश दिनांक 02.06.2021 में भी उल्लेखित किया गया है।"

20. Thus, in my view even though the petition which was filed physically was not presented by the petitioner in person will not result in dismissal of the petition for non-compliance of sub-Rule 3 of Rule 4 of Rules, 1994 as the petition which was filed virtually, at the time of

presentation, the petitioner was present virtually before the court and therefore, I am of the view that substantial compliance of sub-Rule 3 of Rule 4 of Rules, 1994 has been made and the petition cannot be dismissed at this stage.

21. The next submission made by learned counsel for the petitioner is that the averments made in the election petition are wholly vague and the material particulars as required by law to be given in the election petition are not there, the election petitioner want a roving inquiry, which is not permissible under law. In this regard, counsel for the petitioner relied upon the judgments of Hon'ble Supreme Court and of this Court.

22. Learned counsel for the respondent without going into the merits of the submission made by counsel for the petitioner submitted that the election petition was filed mainly on two grounds, firstly that the counting was not proper by the respondent authorities, averment in this regard has been made in paragraph Nos. 8 to 14 of the election petition, which has also been referred by counsel for the petitioner to contend that the material particulars were not given in those paragraphs and secondly, the petitioner has also challenged the election on the ground that the election petitioner was declared elected in the election and thereafter, on an application being moved by the petitioner behind the back of the respondent, recounting was done by the authorities and in the said recounting the petitioner was declared elected. Averments in this regard have been made by the election petitioner in paragraph Nos. 17, 18, 19, 20, 21, 22, 23, 24 and 25 of the election petition. It has been submitted by counsel for the respondent even assuming for the sake of argument that election petitioner has not given the particulars as submitted by counsel for the petitioner, the election petition is maintainable on the other ground i.e. illegal recounting by the authorities for which all material particulars have been given by the election petitioner. It has been further submitted by counsel for the respondent that if the petition is filed on two separate distinct grounds and even if it is held that petition is not maintainable on one of the ground, the election petition

cannot be rejected for the reason that election petition has to be rejected under Order VII Rule 11 of C.P.C. in totality and not in part.

23. I have perused the election petition and have considered the rival submissions made by the respective counsel and from perusal of the election petition, it is apparent that so far as the grounds of challenging the election because of illegal recounting being done behind the back of the respondent cannot be said to be wanting particulars as sufficient pleading has been made in this regard in the election petition and therefore, without going into the merits of the submission of the petitioner that the ground regarding wrong counting of votes at the time of counting, lacked material particulars, even if the same is taken to be correct the application under Order VII Rule 11 cannot be allowed for the reason that the plaint/election petition has to be rejected in totality and not in part.

24. In my view, I am supported by judgment of the Supreme Court in case of **Kum. Geetha, D/o Late Krishna & others v. Nanjundaswamy & others** passed in Civil Appeal No. 7413 of 2023. Paragraph no. 11 & 12 of the judgment is quoted as under:

"11. There is yet another reason why the judgment of the High Court is not sustainable. In an application under Order VII Rule 11, CPC a plaint cannot be rejected in part. This principle is well established and has been continuously followed since the 1936 decision in Maqsd Ahmad v. Mathra Datt & Co, AIR 1936 Lahore 1021. This principle is also explained in a recent decision of this Court in Sejal Glass Ltd. v. Navilan Merchants (P) Ltd, (2018) 11 SCC 780, which was again followed in Madhav Prasad Aggarwal v. Axis Bank Ltd. (2019) 7 SCC 158. The relevant portion of Madhav Prasad (supra) is extracted hereinunder:

"10. We do not deem it necessary to elaborate on all other arguments as we are inclined to accept the objection of the appellant(s) that the relief of rejection of plaint in exercise of powers under Order 7 Rule 11(d) CPC cannot be pursued only in respect of one of the defendant(s). In other words, the plaint has to be rejected as a whole or not at all, in exercise of power under Order 7 Rule 11(d) CPC. Indeed, the learned Single Judge rejected this

objection raised by the appellant(s) by relying on the decision of the Division Bench of the same High Court. However, we find that the decision of this Court in Sejal Glass Ltd. [Sejal Glass Ltd. v. Navilan Merchants (P) Ltd., (2018) 11 SCC 780 : (2018) 5 SCC (Civ) 256] is directly on the point. In that case, an application was filed by the defendant(s) under Order 7 Rule 11(d) CPC stating that the plaint disclosed no cause of action. The civil court held that the plaint is to be bifurcated as it did not disclose any cause of action against the Director's Defendant(s) 2 to 4 therein. On that basis, the High Court had opined that the suit can continue against Defendant 1 company alone. The question considered by this Court was whether such a course is open to the civil court in exercise of powers under Order 7 Rule 11(d) CPC. The Court answered the said question in the negative by adverting to several decisions on the point which had consistently held that the plaint can either be rejected as a whole or not at all. The Court held that it is not permissible to reject plaint qua any particular portion of a plaint including against some of the defendant(s) and continue the same against the others. In no uncertain terms the Court has held that if the plaint survives against certain defendant(s) and/or properties, Order 7 Rule 11(d) CPC will have no application at all, and the suit as a whole must then proceed to trial. ...

12. Indubitably, the plaint can and must be rejected in exercise of powers under Order 7 Rule 11(d) CPC on account of non-compliance with mandatory requirements or being replete with any institutional deficiency at the time of presentation of the plaint, ascribable to clauses (a) to (f) of Rule 11 of Order 7 CPC. In other words, the plaint as presented must proceed as a whole or can be rejected as a whole but not in part..." (emphasis supplied)

12. In view of the above referred principle, we have no hesitation in holding that the High Court committed an error in rejecting the plaint in part with respect to Schedule-A property and permitting the Plaintiffs to prosecute the case only with respect to Schedule-B property. This approach while considering an application under Order VII Rule 11, CPC is impermissible. We, therefore, set aside the judgment and order of the High Court even on this ground."

25. So far as contention of counsel for the petitioner that the Tribunal has erroneously relied upon Full Bench judgment of this Court in case of **Saumitra Devi Vs. Special Judge** reported in **2006 (6) ADJ 134**, I am

not inclined to interfere on this score as I have already held that there was sufficient compliance of the provisions of sub-Rule 3 of Rule 4 of Rules, 1994.

26. In view of the discussions made above, I am of the view that the Election Tribunal/ District Judge has committed no error in rejecting the application filed by the petitioner under Order VII Rule 11 of the C.P.C. The petition lacks merit and is **dismissed**.

(Manish Kumar Nigam, J.)

September 16, 2025

Nitika Sri.