



CS No. 310 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20-08-2026

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CORAM

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

CS No. 310 of 2025

AND

A.No. 3352 of 2026,

A.No. 755 of 2026, A.No. 1029 of 2026,

OA.No. 625 of 2026, A NO. 2842 OF 2026

1. V.R. Jaganathan
S/o.C.Ramasawamy,
President, Indian National Trade Union
Congress(TN Branch)
19, T.N.Chinnasamy Avenue,
Rangammal Koil Street,
Peelamedu,
Coimbatore-641004
2. Indian National Trade Union Congress
Rep by P.Srinivasan Secretary, INTUC
Residing at 46/1, 3rd Main Road,
Baba Nagar, Villivakkam, Chennai-600049

..Plaintiff(s)

Vs

1. M. Pannerselvam
S/o.Munuswamy,
No.179/80, Adam Sahib Street,
Royapuram,
Chennai-600013
2. A.Kalyanaraman
Care of M.Paneerselvam,
No.179/80, Adam Sahib Street,
Royapuram,
Chennai-600013
3. S.Lingamoorthy

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Care of M.Pannerselvam, No.179/80, Adam
Sahib Street, Royapuram, Chennai-600013

4. M.Arumugam

Care of M.Pannerselvam , No.179/80, Adam
Sahib Street, Royapuram, Chennai-600013

5. M.Nandhakumar

Care of M.Pannerselvam ,
No.179/80, Adam Sahib Street,
Royapuram, Chennai-600013

6. D.Dhanasekar

Care of M.Pannerselvam ,
No.179/80, Adam Sahib Street, Royapuram,
Chennai-600013

7. J.Mathiyalagan

Care of M.Pannerselvam , No.179/80, Adam
Sahib Street, Royapuram, Chennai-600013

8. T.Rajasekaran

Care of M.Pannerselvam ,
No.179/80, Adam Sahib Street,
Royapuram,
Chennai-600013

9. K.Gunasekaran

Care of M.Pannerselvam ,
No.179/80, Adam Sahib Street, Royapuram,
Chennai-600013

10.K.S.ThusalimanCare of M. Pannerselvam

No.179/80, Adam Sahib Street, Royapuram,
Chennai-600013

..Defendant(s)

A.No. 2842 of 2026

1. A.Kalyanaraman

Care of M.Paneerselvam, No.179/80, Adam
Sahib Street, Royapuram, Chennai-600013

2. S.Lingamoorthy

Care of M.Pannerselvam, No.179/80, Adam
Sahib Street, Royapuram, Chennai-600013

3. M.Arumugam

Care of M.Pannerselvam, No.179/80, Adam



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Sahib Street, Royapuram, Chennai-600013

4. M.Nandhakumar

Care of M.Pannerselvam, No.179/80, Adam
Sahib Street, Royapuram, Chennai-600013

5. D.Dhanasekar

Care of M.Pannerselvam, No.179/80, Adam
Sahib Street, Royapuram, Chennai-600013

6. J.Mathiyalagan

Care of M.Pannerselvam, No.179/80, Adam
Sahib Street, Royapuram, Chennai-600013

7. T.Rajasekaran

Care of M.Pannerselvam, No.179/80, Adam
Sahib Street, Royapuram, Chennai-600013

8. K.Gunasekaran

Care of M.Pannerselvam, No.179/80, Adam
Sahib Street, Royapuram, Chennai-600013

9. K.S.Thusaliman

Care of M.Pannerselvam, No.179/80, Adam
Sahib Street, Royapuram, Chennai-600013

..Applicant(s)

Vs

1. V.R. Jaganathan

S/o.C.Ramasawamy, President, Indian National
Trade Union Congress(TN Branch) 19,
T.N.Chinnasamy Avenue, Rangammal Koil
Street, Peelamedu, Coimbatore-641004

2. Indian National Trade Union Congress

Rep by P.Srinivasan Secretary, INTUC
Residing at 46/1, 3rd Main Road, Baba Nagar,
Villivakkam, Chennai-600049

..Respondent(s)

CS No. 310 of 2025

Prayer: The suit has been filed under Order IV Rule 1 of O.S. Rules and Order VII Rule 1 of CPC:

i) For Declaration declaring that the election conducted by the defendants on 16.11.2025 as null and void in the eyes of law and not binding on the

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plaintiff's union;

ii) For consequential permanent injunction restraining the defendants, their men, agents, anyone claiming under them from interfering with or disturbing the functioning of the Working Committee under the presidentship of the 1st plaintiff;

iii) Directing the defendants to pay the cost of the suit.

A.No. 2842 of 2026

To transpose the Applicants/Defendants 2 to 10 as Plaintiffs 3 to 11 in C.S.No.310 of 2025 and to permit the Applicants to continue and prosecute the above suit.

O.A.No.625 of 2026

To grant an ad interim injunction restraining the 2nd Respondent herein/2nd Plaintiff, Indian National Trade Union Congress (Central INTUC) its President, Secretary, Office Bearers, men, agents and all persons claiming under or through it, from in any manner acting upon, proceeding with, giving effect to or taking up for consideration the Show Cause Notice dated 10/06/2026, including by placing the same before or deliberating upon or taking any decision pursuant thereto at the Working Committee Meeting of INTUC proposed to be held on 28/06/2026 or any adjourned or subsequent date and thereby restraining the Respondents 1 and 2 herein/Plaintiffs, their men and agents from suspending, dissolving, superseding or interfering with the Working Committee of TN-INTUC elected on 16/11/2025 under the Presidentship of the 1st Defendant, or from constituting any Ad-hoc Committee in its place, pending disposal of the above suit.

For Plaintiff(s):

Mr.M.S.Krishnan,



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Senior Advocate
for Mr.K.Roopesh
for Sarvabhavman Associates

For Defendant(s):

Mr.A.K.Sriram for
Mr.D.Ravichander for D1
M/S. K.S.Kamakshi for D2 to
D10

ORDER

The plaintiffs have filed a memo seeking permission to withdraw the suit unconditionally. The said memo is opposed by the 1st defendant.

2.The brief facts necessary for consideration of the memo are as follows:

The plaintiffs instituted the suit questioning the validity of the elections conducted to the Tamil Nadu INTUC Working Committee on 16.11.2025 and sought a declaration that the said election conducted by the defendants is null and void. It is contended that the apex body of the Trade Union subsequently took cognizance of the irregularities prevailing in the Organization and took appropriate steps in accordance with the Constitution of the Organization. The apex body of the Trade Union Organization, in exercise of the powers conferred upon it under the Constitution of the Organization, appointed an Ad-hoc Committee. Consequently, the alleged elected Committee has been replaced by

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the said Ad-hoc Committee, and the subject matter of the suit has thereby become infructuous. In view of the subsequent developments, the plaintiffs filed the present memo seeking unconditional withdrawal of the present suit.

3.Pursuant thereto, the defendants 2 to 10 filed a transposition application, numbered as A.No.2842 of 2026, in which the plaintiffs have filed their counter statement.

4.The 1st defendant filed a reply to the said memo stating that the plaintiffs, who challenged the elections conducted to the Tamil Nadu INTUC Working Committee held on 16.11.2025, had got their interim application in O.A.No.1201 of 2025 dismissed by this Court vide order dated 26.02.2026. This Court, while considering the interim relief sought by the plaintiffs, noticed, inter alia, that other members elected in the elections held on 16.11.2025 had not been impleaded and that the application suffered from the defect of non-joinder of necessary parties. It was also observed that the validity of the election was a matter which would have to be adjudicated at the stage of trial.



5.It is the further case of the 1st defendant that notwithstanding the aforesaid proceedings, the 2nd plaintiff issued a show cause notice calling upon the 1st defendant to show cause as to why action should not be taken against him in relation to the conduct of the elections held on 16.11.2025 and further as to why an Ad-hoc Committee should not be appointed in the place of the existing Working Committee of Tamil Nadu INTUC. The said notice was served upon the 1st defendant on 17.06.2026.

6.Immediately thereafter, the 1st defendant instituted O.A.No.625 of 2026 seeking appropriate injunctive relief, which was posted for hearing on 24.06.2026. According to the 1st defendant, with a view to render the said proceedings infructuous, the plaintiffs filed the memo stating that an amicable settlement was in progress. The 1st defendant disputes the existence of any such settlement and contends that the withdrawal is an abuse of the process of the Court.

7.More importantly, the 1st defendant has already filed a written statement containing a counter claim. By way of the counter claim, the 1st defendant seeks, *inter alia*, a declaration that he is the duly elected President of the Tamil Nadu



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INTUC Working Committee, a declaration that the show cause notice dated 10.06.2026 is null and void, and a consequential permanent injunction restraining the plaintiffs from interfering with his peaceful functioning as President of the Tamil Nadu INTUC Working Committee.

8.Mr.M.S.Krishnan, learned Senior Counsel for the plaintiffs submitted that due to the subsequent developments, the very subject matter of the suit has become infructuous and that there is no useful purpose in continuing the suit. He would further contend that, when a memo is filed by the plaintiff for withdrawal of the suit, no option is left to the Court except to record the memo and dismiss the suit as withdrawn and relied upon the judgment reported in **2010 SCC Online Madras 5794**. His further contention is that, while making a prayer to withdraw the suit under Order XXIII Rule 1(1), the plaintiff does not ask for any leave to file a fresh suit on the same subject matter. A mere withdrawal of the suit without asking for anything more can, therefore, be always permitted. The defendant has no right to compel the plaintiff to prosecute the suit by opposing the withdrawal of the suit sought by the plaintiff except to claim the costs for filing a suit against him and relied upon the judgment reported in **(2018) 12 Supreme Court Cases 584**. He would further



contend that from a perusal of the Rule and the ratio laid down in *Vasantha*

Ammal Vs. V.P.Dhanaraj and Others, reported in *1990 (1) LW 209*, a

defendant has a right to transpose himself as a plaintiff must have a substantial question to be decided and it has to be tested whether such substantial question has to be decided against any other defendants, and the defendant seeking transposition must have an identity of interest along with the plaintiff as against other defendants. Further, it has to be tested whether the withdrawal or abandonment by the plaintiff of the suit results in some vested right of the defendant getting defeated. The learned Senior Counsel would submit that, applying the above tests, in the present suit the defendants who seek to transpose themselves as plaintiffs do not have any substantial question to be decided against any other defendants in the suit and do not have any identity of interest along with the plaintiff as against other defendants and therefore, the withdrawal of the suit by the plaintiff do not result in defeating any right of the above defendants. Hence, submitted that the application filed by the defendants who seek transposition as plaintiffs is liable to be rejected. To support his contention, he has relied upon the judgments reported in *2006 SCC Online MAD 913 and (2020) 14 Supreme Court Cases 1*.



9. On the other hand, Mr. A.K. Sriram, learned Counsel for the 1st defendant would submit that the counter claim is designed to avoid multiplicity of proceedings. The learned counsel would submit that no time limit for filing a counter claim is explicitly provided for and that the only limitation as to accrual of cause of action is provided for. Therefore, even counter claim filed after submission of the written statement is permissible and the Court has discretionary power to consider such belated counter claim. To support his contention, he has relied upon the judgment reported in ***(2020) 2 Supreme Court Cases 394***.

10. Heard on both sides and records perused.

11. The question that arises for consideration is:

Whether the plaintiffs can be permitted to withdraw the suit?

12. Order XXIII Rule 1(1) CPC recognises the right of a plaintiff to abandon his suit or part of his claim. The Hon'ble Supreme Court has repeatedly held that an unconditional abandonment of a suit ordinarily constitutes an unqualified right of the plaintiff and the Court cannot ordinarily compel a plaintiff to continue prosecuting a claim which he does not wish to



pursue. However, the position becomes materially different once a defendant has raised a valid counter claim. Order VIII Rule 6-A(2) CPC provides that a counter claim shall have the same effect as a cross suit so as to enable the Court to pronounce a final judgment both on the original claim and on the counter claim. Rule 6-A(4) provides that the counter claim shall be treated as a plaint and governed by the Rules applicable to plaints.

13. Most significantly, Order VIII Rule 6-D provides:

“If in any case in which the defendant sets up a counter claim, the suit of the plaintiff is stayed, discontinued or dismissed, the counter claim may nevertheless be proceeded with.”

14. The Hon’ble Supreme Court in ***Rajni Rani Vs. Khairati Lal***, reported in **(2015) 2 SCC 682**, has authoritatively explained the effect of these provisions. The Hon’ble Supreme Court held that a counter claim is in the nature of a cross suit and, by statutory command, even if the original suit is dismissed, the counter claim remains alive for adjudication. The object of the provision is to avoid multiplicity of proceedings and to enable the Court to adjudicate both claims in the same proceeding.



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15. Therefore, the objection of the 1st defendant that the plaintiffs have no right whatsoever to withdraw the original suit cannot, in the absolute sense, be accepted. The plaintiffs, as dominus litis, are entitled to abandon their own claim. But such abandonment cannot operate to extinguish or defeat the independent counter claim of the 1st defendant. Further, the 1st defendant has not merely raised a defence in the written statement. He has sought substantive and affirmative reliefs by way of counter claim, namely, a declaration regarding his election as President, a declaration concerning the validity of the show cause notice and a consequential permanent injunction. Such reliefs constitute independent claims requiring adjudication. Consequently, even if the plaintiffs' suit is permitted to be withdrawn, the counter claim cannot be treated as having automatically disappeared. It has to be proceeded with as an independent cross suit in accordance with Order VIII Rules 6-A to 6-G CPC. Further, the proposition in *Ashok Kumar Kalra Vs. Wing CDR Surendra Agnihotri*, reported in **(2020) 2 SCC 394**, decided by a three-Judge Bench, concerns Order VIII Rule 6-A CPC and the stage at which a counter claim may be introduced. The Hon'ble Supreme Court held that Order VIII Rule 6-A CPC does not absolutely require a counter claim to be filed along with the written



statement. A counter claim may, in an appropriate case, be permitted even after filing of the written statement. Further, it is held that there is no specific time limit for filing of a counter claim in Rule 6-A. Therefore, the contention made by the learned Senior Counsel for the plaintiffs that the counter claim is not filed along with the written statement and the same is filed belatedly cannot be accepted.

16.It is therefore held that the plaintiffs are entitled to withdraw the original suit under Order XXIII Rule 1 CPC. However, such withdrawal shall have no effect whatsoever upon the counter claim of the 1st defendant. The 1st defendant shall be entitled to prosecute the same in accordance with law and the plaintiffs shall be entitled to file their defence to the counter claim, if not already filed.

17.The Court also makes it clear that this order does not express any opinion on the validity of the elections held on 16.11.2025, the validity of the show cause notice dated 10.06.2026. All such questions are left open for adjudication in the counter claim, subject to its maintainability and the pleadings and evidence of the parties.

**Application No.2842 of 2026**

18.The defendants 2 to 10 have filed the above application for transposing themselves as plaintiffs in the present suit and to permit them to continue and prosecute the suit. Such application can be entertained only when the defendant seeking transposition possesses an identical interest to that of the plaintiff and seeks adjudication of a substantial question against the remaining defendants.

19.In the present case, the suit has been instituted by the plaintiffs seeking a declaration that the election allegedly conducted on 16.11.2025 is null and void and not binding upon the plaintiff's union. The defendants 2 to 10 in the suit, admittedly, constituted the Election Committee and Credentials Committee responsible for conducting the said election held on 16.11.2025. Therefore, the above defendants are directly interested in sustaining and defending the validity of the very election which is under challenge in the suit. In such circumstances, their interest is fundamentally opposed to that of the plaintiff, and by no stretch of imagination it can be contended that their interest is aligned with that of the plaintiff so as to warrant their transposition as plaintiffs. Hence, the above application is liable to be dismissed.



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WEB COP 20. In the result,

- (a) the memo filed by the plaintiffs seeking unconditional withdrawal of the suit is recorded and the civil suit is dismissed as withdrawn, without granting liberty to institute a fresh suit on the same subject matter.
- (b) the counter claim shall survive independently and shall proceed with in accordance with Order VIII Rules 6-A to 6-G CPC.
- (c) the plaintiffs shall be entitled to contest the counter claim in accordance with law.
- (d) the Application No.2842 of 2026 is dismissed.
- (e) the status quo in O.A.No.625 of 2026 is extended till 27.08.2026.
- (f) connected applications in A.No.755 of 2026 and A.No.1029 of 2026 are closed. There shall be no order as to costs.

20-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

VSN



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CS No. 310 of 2025

K.GOVINDARAJAN THILAKAVADI J.

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CS No. 310 of 2025

and

A NO. 3352 OF 2026,A NO. 755 OF 2026,

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OA NO. 625 OF 2026,A NO. 2842 OF 2026

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