

ORDINARY ORIGINAL CIVIL JURISDICTION

Sandeep Ganesh Naik	...Applicant (Respondent No.1)
In the matter of :	
Vijay Laxman Chougule	...Petitioner
vs.	
Sandeep Ganesh Naik & Ors.	...Respondents

Mr. Atul Damle, Senior Advocate, I/b. Mr. Abhishek Singh, for the Respondent/Original Petitioner.

DATE : 10 OCTOBER, 2016.

Heard learned Counsel for the parties.

2. The application seeks rejection of the election petition under Order VII Rule 11 of the Code of Civil Procedure on the ground that the petition does not disclose any cause of action and that it lacks any material particulars. The petition proceeds on the footing that there is a non-disclosure of assets on the part of the Respondent. The particular assets, which are said to be owned by the Respondent and which are said to be

undisclosed in the nomination papers, are particularized in the petition. So also, the alleged corrupt practice by placing another candidate of the same name as that of the Petitioner in order to confuse the voters and distribution of brochures, pamphlets and booklets without following proper procedure under Section 127A of the Representation of the People Act, 1951 are referred to as grounds for filing of the petition. The facts taken at their face value do disclose a cause of action to challenge the Respondent's election. The pleading, in so far as the ground of non-disclosure of assets is concerned, amounts to a sufficient pleading and cannot be said to be devoid of material particulars as suggested by learned Counsel for the Respondent. At this stage, the Court is not expected to go through the allegations to see if they are supported by evidence or material made available in connection with the grounds of challenge. The petition on the face of it discloses a cause of action and cannot be said to be devoid of particulars so as to throw out this petition at this stage under Order VII Rule 11 of the Code of Civil Procedure. The allegations contained in the present application under Order VII Rule 11 are mostly in the nature of joining issues with the Petitioner as and by way of defence. The merits of the Petitioner's allegations and the Respondent's defence thereto are matters of trial. No interference is required at this stage.

3. The application is, accordingly, dismissed.

4. All rights and contentions of both parties on merits are kept open for being agitated in the course of the trial.

5. The Respondent is directed to file his written statement in the petition within a period of six weeks from today.

6. Place this petition after six weeks for directions.

(S.C. GUPTE, J.)