

**(2019) 04 MAN CK 0008**

**In the Manipur High Court**

**Case No :** Miscellaneous Cases (Election Petition) No. 8 Of 2018 In Election  
Petition No. 11 Of 2017

Langpoklakpam Jayantakumar Singh And Others

APPELLANT

Vs

Laishom Ibomcha Singh And Others

RESPONDENT

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**Date of Decision :** 25-04-2019

**Acts Referred:**

Constitution Of India, 1950 — Article 191, 191(1)(a)  
Code Of Civil Procedure, 1908 — Order 6 Rule 16, Order 7 Rule 11, Order 7 Rule 11(a)  
Representation Of The People Act, 1951 — Section 80, 81, 81(3), 82, 83, 83(1), 83(1)  
(a), 83(1)(b), 86, 86(1), 100, 100(1)(d)(iii), 100(1)(d)(iv)

**Citation :** (2019) 04 MAN CK 0008

**Hon'ble Judges :** Kh. Nobin Singh, J

**Bench :** Single Bench

**Advocate :** A. Bimol, S. Biswajit

**Final Decision :** Dismissed

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## **Judgement**

Kh. Nobin Singh, J

Heard Shri A. Bimol, learned Senior Advocate appearing for the applicant/ respondent No.1 and Shri S. Biswajit Meitei, learned Advocate appearing for respondent No.1/ petitioner.

[1] This is an application filed by the applicant/ respondent No.1 under Order VI Rule 16 and Order VII Rule 11 read with Section 81, 83 and 86 of the Representation of the People Act, 1951 (hereinafter referred to as "the Act, 1951") praying for striking out the pleadings in the so-called replication of the respondent No.1/ petitioner as are inconsistent or at variance with his original pleas in the election petition and for rejection of the election as the pleadings in the election does not make out any cause of action or triable issues and the trial would prejudice, embarrass and delay the proceedings of the election petition.

[2] The grounds on the basis of which the instant application has been filed by

the applicant/ respondent No.1, read as under:

"4. That the Petitioner filed his so-called Replication belatedly on 23.01.2018. In the said Replication, the Petitioner has brought in many new facts and grounds in the so-called Replication of the Petitioner as are inconsistent or at variance with his original pleas in Election Petition for the first time.

The Applicant humbly submits that material facts/grounds and particulars must be furnished wherever necessary in the Election Petition itself and cannot be set out for the first time in the so-called Replication filed much after the expiry of the period of limitation for filing Election Petition. The material facts/grounds and particulars alleged for the first time in the so-called Replication and not forming part of the original averments made in the Election Petition cannot be tried and cannot be made the subject-matter of issues framed or to be framed, as the case may be, by the Hon'ble Court. Moreover, the said Replication is not accompanied by an Affidavit in prescribed form in support of the allegations of corrupt practice and accordingly, such pleadings based on new facts and new set of ideas as contained in the so-called Replication of the Petitioner deserves out-right rejection.

5. That the Applicant humbly and respectfully submits that the Election Petition does not at all disclose or make out any cause of action or triable issues and that the trial would prejudice, embarrass, and delay the proceedings besides wasting the valuable time of this Hon'ble Court. Accordingly, the Election Petition deserves to be rejected with exemplary costs.

[3] The prayer in the application reads as under:

#### P R A Y E R

The Applicant herein, humbly and earnestly prays that Your Lordships may graciously be pleased to strike out the pleadings in the so-called Replication of the Petitioner which are inconsistent or at variance with his original pleas in Election Petition and to dismiss the Election Petition as not disclosing any cause of action or triable issues and as an abuse of the process of the Hon'ble Court with exemplary costs, - for the ends of justice.

And the Applicant, as in duty bound, shall ever pray."

[4] It has been contended by Shri A. Bimol, the learned counsel appearing for the applicant/ respondent No.1 that two preliminary issues have been raised in the application-one, the election petition is not maintainable, as it does not make out any cause of action or triable issues and two, the material facts and particulars which have been raised for the first time in the replication, should be struck out. As regards the first issue, it has been submitted by him that the respondent No.1/ petitioner raised three points in the election petition which are summarized as under:

(i) The applicant/ respondent No.1 did not open a separate account for the

purpose of his election expenditure at least one day prior to the date of his nomination being filed on 13-02-2017. Since he opened his account only on 16-02-2017, he has violated the mandatory instructions of the ECI and therefore, the acceptance of his nomination paper has materially affected the result of the election of the respondent No.1/ petitioner;

(ii) The applicant/ respondent No.1 filed an affidavit stating that he had no Government dues except dues in respect of motor car advance but there was land revenue due payable to the Government in respect of his landed property at Wangkhem Village, Keirao Bitra.

(iii) While submitting his statement of election on 07-04-2017, the applicant/ respondent No.1 has given a false statement in his affidavit filed in respect of the election expenses and in particular, the expenses for the period from 13-02-2107 to 15-02-2017 as regards the nomination fee deposited on 13-02-2017.

It has further been submitted by him that in his written statement, the applicant/ respondent No.1 has given the facts in detail and therefore, no cause of action or triable issue is made out with the result that the election petition deserves for dismissal. Reliance has been placed by him on the decision of the Hon'ble Supreme Court rendered in Lakshmi Charan Singh Vs. A.K.M. Hassan, (1985) 4 SCC 689 wherein it has been held that the directions given by the ECI to CEOs, though binding on the later, did not have the force of law under the RP Act, 1950 and 1951, the non-compliance thereof could not vitiate the election. As regards the second point, it has been submitted by him that the replication was filed at a belated stage pleading for the first time new facts, as is evident from the order dated 05-02-2019 passed by this Court in MC(EP) No.30 of 2018 with the observation that the respondent No.1/ petitioner, in his replication, has made an endeavour to explain what has been stated in the election petition and that that is permissible in law but while doing that, he has pleaded some new facts.

On the other hand, it has been submitted by Shri S. Biswajit Meitei, the learned counsel appearing for the respondent No.1/ petitioner that as regards the allegation that new facts have been pleaded in the replication, this Court has allowed the application being MC (EP) No.30 of 2018, filed by the applicant/ respondent No.1, permitting him to file a sur-rejoinder and therefore, the question of striking out the alleged new facts does not arise at all. So far as the second issue is concerned, it has been submitted by him that the application was filed more than a year after the replication being filed by the respondent No.1/ petitioner which cannot be entertained in view of a catena of decisions rendered by the Hon'ble Supreme Court that so long as the petition discloses some cause of action or raises a question fit to be decided by the court, the mere fact that the case is weak and not likely to succeed, is no ground for rejecting the election petition without trial. Since the application has been filed by the applicant/ respondent No.1 after various orders having been passed by this Court for framing of issues, the filing thereof is an afterthought only to delay the trial of the election petition. The prayers made in the application are contradictory and

since the application being MC (EP) No.30 of 2018 having been allowed by this court, the instant application does not survive at all. Reliance has been placed by him in *Mohinder Singh Gill Vs. CEC*, AIR 1978 SC 851 wherein it has been held by the Hon'ble Supreme Court that the ECI has the plenary powers and also sacred duty to conduct free and fair election in the country. Hence, the lawful instructions/ guidelines issued by the ECI are binding on all the political parties and their violation shall affect the transparency of the election process which is the bedrock of the democracy. One point which the learned counsel appearing for the respondent No.1/ petitioner has emphasized, is that the application has been filed long after the replication being filed by the respondent No.1/ petitioner and that in terms of the decision rendered by the Hon'ble Supreme Court in *Ajay Arun Singh Vs. Sharadendu Tiwari & ors.*, (2016) 15 SCC 219, the filing of the application is to be deprecated.

[5] On the basis of various cases, relating to election either of the Legislative Assembly or of the parliament, decided by the Hon'ble Supreme Court, the election petitions filed under the provisions of Section 80 of the Act can be broadly categorised into two - one, an election petition filed on the ground of corrupt practice and two, an election petition filed on the ground that the result of the election has been materially affected by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under the Act. Section 83(1)(a) of the Act, 1951 which mandates that an election petition shall contain a concise statement of material facts, is common for both the categories of election petitions. So far as the first category is concerned, Section 83(1)(b) provides that the election petition shall set out full particulars of corrupt practice. Many of the cases in which election petitions have been filed, fall under the first category and the allegations are mainly against the returned candidate. That is the reason as to why the concise statement of material facts has become inevitable so that the returned candidate can understand the charge leveled against him and meet the same in his/ her defence. This requirement of setting out full particulars of corrupt practice is not there in respect of the second category for the simple reason that the corrupt practice is not the ground on which the election petition has been filed. As regards the second category, there are two aspects which need to be taken into consideration by the court while deciding the election petition. The first aspect relates to a situation where the allegations are not made against the returned candidate but against the officials of the ECI/ CEO who are involved in the conduct of election. It may be noted that Section 82 talks about the persons to be joined as the respondents but neither the officials who are involved in the conduct of election nor the ECI can be made as parties in the petition, as is evident from some of the decisions of the Hon'ble Supreme Court. The point that may arise for consideration by the court, relates to how the returned candidate will defend himself in respect of the allegations made against the officials. The second aspect relates to a situation where the officials or for that matter, the ECI are alleged to have not complied with the provisions of the Constitution or of this

Act or of any rules or orders made under the Act while conducting the election with the result that the result of the election had been declared. This aspect is very important from a different perspective because the election can be declared as void for no fault of the returned candidate but of the officials of the ECI and in that event, it may tantamount to penalising the returned candidate with no remedy.

[6] Section 83(1)(a) of the Act, 1951 provides that an election petition shall contain a concise statement of material facts and non-compliance thereof will render the petition liable to be dismissed. The mere statement of material facts is not enough and the material facts, so stated in the petition, must disclose the cause of action, failing which the election petition can be dismissed by the court in exercise of power conferred under the provisions of Order 7 Rule 11 of the CPC. In *Azhar Hussain Vs. Rajiv Gandhi*, 1986 (Suppl.) SCC 315 the Hon'ble Supreme Court has held that an election petition can be summarily dismissed if it does not furnish cause of action in exercise of the powers under the C.P.C.

Appropriate orders in exercise of power under the C.P.C can be passed if the mandatory requirements enjoined by Section 83 of the Act to incorporate the material facts in the election petition, are not complied with.

In *Mohan Rawale Vs. Damodar Tatyaba @ Dadasaheb & ors.*, (1994) 2 SCC 392, the Hon'ble Supreme Court held:

"9. The second contention of Shri Sanghi is that even the allegations in the later paras of the election petition relating to the period after the commencement of the appellant's candidature are vague, bereft of material particulars, frivolous and vexatious and do not disclose a reasonable cause of action. Shri Sanghi submits that Section 86 does not exhaust the grounds of dismissal of an election petition in limine. An election petition, says counsel, can and ought to be rejected if grounds contemplated by Rule 11 of Order 7 Civil Procedure Code exist. Shri Sanghi's contention really covers three distinct, though overlapping, ideas. It raises the question of absence of material particulars, alleges frivolousness and vexatiousness of the pleadings and lastly, alleges their inability and insufficiency to disclose a reasonable cause of action."

In *Anil Vasudev Salgaonkar Vs. Naresh Kushali Higaonkar*, (2009) 9 SCC 310, the Hon'ble Supreme Court held:

"50. The position is well settled that an election petition can be summarily dismissed if it does not furnish the cause of action in exercise of the power under the Code of Civil Procedure. Appropriate orders in exercise of powers under the Code can be passed if the mandatory requirements enjoined by Section 83 of the Act to incorporate the material facts in the election petition are not complied with."

In *Ponnala Lakshmaiah Vs. Kommuri Pratap Reddy & ors.*, (2012) 7 SCC 788 wherein the question was as to whether the election petition filed by the

respondent No.1 therein disclosed a cause of action. The Hon'ble Supreme Court examined the expression "cause of action" and its earlier decisions wherein it has been held that while determining the question whether the plaint discloses a cause of action, the court must take into consideration the plaint as a whole and if no cause of action is found discernible, the court can exercise its power under Order 7 Rule 11 of CPC.

In *Ashraf Kokkur Vs. K.V. Abdul Khader & ors.*, (2015) 1 SCC 129, the question was as to whether the averments in the election petition disclose a cause of action as required under Order 7 Rule 11(a) of the CPC, 1908. The sole ground in the election petition is that the respondent is disqualified under Article 191(1)(a) of the Constitution of India, since he was holding the post Chairperson of the Kerala State Wakf Board. While allowing the appeal, the Hon'ble Supreme Court held:

"12. The requirement under Section 83(1)(a) of the RP Act in contradistinction to Section 83(1)(b) of the RP Act is that the election petition need contain only a concise statement of the material facts and not material particulars 'Concise according to Oxford Dictionary means, 'brief and comprehensive'. Concise Oxford Dictionary has given the meaning to the expression 'concise as 'giving a lot of information clearly and in few words'. As per Webster's Comprehensive Dictionary, International Edition, expression has been defined as 'expressing much in brief form'.

14. Holding an office of profit under the Government of India or the Government of any State is the disqualification. Whether that ground is discernible if the election petition is read as a whole, is the simple exercise to be undertaken by the High Court, when called upon to do so under Order 7 Rule 11(a) CPC.

14.1. At Para 3 of the election petition, it is contended that the respondent was holding an office of profit viz. the Chairperson of the Kerala State Wakf Board. Again, in the same paragraph, it is stated that the Chairperson of the State Wakf Board receives such remuneration as is provided for and prescribed by the Government of Kerala. After quoting Article 191 of the Constitution, it is pleaded that any person who holds an office of profit under the State Government, is debarred from contesting the elections to the Legislative Assembly. It is again pleaded that the State of Kerala having not made any legislation on removal of disqualification of the Chairperson of the Wakf Board, the Chairperson of the Kerala State Wakf Board is disqualified under Article 191 of the Constitution.

14.2. At Para 6, enumerating the particulars, it is pleaded that he was holding an office of profit in having been granted honorarium, allowances and enjoying the facility of a car at State expenses and drawing other pecuniary advantages.

14.3. Again, under Para 7, it is stated that the first respondent was provided with chauffeur whose salary and allowances are paid also from the funds of the Government of Kerala.

14.4. At Para 10, it is clearly stated that 'since admittedly on the date of the election, the first respondent was holding an office of profit as the Chairperson of the Kerala State Wakf Board, he was disqualified to contest the election'.

14.5. In Ground A in the election petition, it is reiterated that the first respondent suffered from the disqualification under Article 191 of the Constitution of India since he was holding an office of profit as Chairperson of the Wakf Board and that he was entitled and drawing financial perquisites and allowances and pecuniary benefits from the State of Kerala as Chairperson of the Kerala State Wakf Board and, hence, he was holding an office of profit which was a disqualification under Article 191 of the Constitution of India. Thus, he was disqualified to contest the election to the Kerala State Legislative Assembly.

14.6. These averments, to us, clearly disclose a cause of action viz. the respondent was holding the position as Chairperson of the Kerala State Wakf Board and deriving financial benefits from the Kerala Government is disqualified under Article 191(1)(a) of the Constitution of India, as holding of an office of profit under the State Government of Kerala. That is the triable issue in the election petition.

22. After all, the inquiry under Order 7 Rule 11(a) CPC is only as to whether the facts as pleaded disclose a cause of action and not complete cause of action. The limited inquiry is only to see whether the petition should be thrown out at the threshold. In an election petition, the requirement under Section 83 of the RP Act is to provide a precise and concise statement of material facts. The expression 'material facts' plainly means facts pertaining to the subject-matter and which are relied on by the election petitioner. If the party does not prove those facts, he fails at the trial [see *Philipps v. Philipps* (QBD p. 133); *Mohan Rawale v. Damodar Tatyaba* (SCC p. 399, para 16)].

25. In *Hari Shanker Jain v. Sonia Gandhi*, a three-Judge Bench of this Court held that the expression 'cause of action' would mean facts to be proved, if traversed, in order to support his right to the judgment of the court and that the function of the party is to present a full picture of the cause of action with such further information so as to make opposite party understand the case he will have to meet. To quote para 23: (SCC p. 251)

"23. ...The expression 'cause of action' has been compendiously defined to mean every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of court. Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. The function of the party is to present as full a picture of the cause of action with such further information in detail as to make the opposite party understand the case he will have to meet. (See *Samant N. Balkrishna v. George Fernandez* and *Jitendra Bahadur Singh v. Kirshna Behari*.) Merely quoting the words of the section like chanting of a mantra does not amount to stating material facts. Material facts would include positive statement of facts as also

positive averment of a negative fact, if necessary. In *V.S. Achuthanandan v. P.J. Francis* this Court has held, on a conspectus of a series of decisions of this Court, that material facts are such preliminary facts which must be proved at the trial by a party to establish existence of a cause of action. Failure to plead 'material facts' is fatal to the election petition and no amendment of the pleadings is permissible to introduce such material facts after the time-limit prescribed for filing the election petition."

[7] From the aforesaid decisions, it is clear that the Hon'ble Supreme Court has not laid down any law on the issue as to what particulars would constitute material facts in an election petition filed on the grounds contained in Section 100(1)(d)(iii) and (iv) of the Act. That means, the principle laid down by the Hon'ble Supreme Court with respect to the expression "material facts" would apply to all election petitions irrespective of whether the same are filed on any of the grounds enumerated in Section 100 of the Act and it would depend upon the facts of each case. In *D. Ramachandra Vs. R.V. Janakiraman*, (1993) 3 SCC wherein one of the issues was as to whether preliminary objections taken as to the maintainability of the election petition is sustainable in law, on the facts and in the circumstances of the case, the Hon'ble Supreme Court held that it is well settled that in all cases of preliminary objection, the test is to see whether any of the reliefs prayed for could be granted to the appellant if averments made in the petition are proved to be true. For the purpose of considering a preliminary objection, the averments made in the petition should be assumed to be true and the court has to find out whether those averments disclose a cause of action or a triable issue as such. Order 7 Rule 11 enjoins the court to reject the plaint where it does not disclose a cause of action. It is elementary that under Order 7 Rule 11 (a) CPC, the court cannot dissect the pleading into several parts and consider whether each one of them discloses a cause of action. While holding that the election petition as such does disclose a cause of action which if un-rebutted could void the election and that the provisions of Order 7 Rule 11 (a) cannot therefore be invoked in that case, the Hon'ble supreme court held that the judgment and order of the High Court unsustainable. In *T.M. Jacob Vs. C. Poullose & ors.*, (1999) 4 SCC 274, an appeal by way of special leave was filed against the order passed by the learned Single Judge rejecting the application on various grounds. The said application has been filed in an election petition filed by the first respondent alleging that the election of the appellant stood vitiated by commission of various corrupt practices. The prayer was that the election petition be dismissed for non-compliance with the provisions of Section 81(3) of the Act. In view of the decisions rendered in *Dr. Shipra Vs. Shantilal Khoiwal*, (1996) 5 SCC 181, the matter was referred to the Constitution Bench which relates to the issue as regards the defect in the copy of the affidavit supplied to the returned candidate. The other question which was considered, was as to whether the election petition was liable to be rejected in limine for non-compliance with Section 81(3) read with Section 86(1) of the Act on account of the defect in the

'true copy' supplied to the respondent. The Hon'ble Supreme Court held that the

expression 'copy' in Section 81(3) of the Act means a copy which is substantially so and which does not contain material or substantial variation of a vital nature as could possibly mislead a reasonable person to understand and meet the charges/ allegations made against him in the election petition. While disagreeing the contention of Shri Salve, the Supreme Court observed that the legislative intent appears to be quite clear, since it divides violations into two classes-those violations which will 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. The defect of the type in Section 83 of the Act can be dealt with under the doctrine of curability on the principles contained in the Code of Civil Procedure. It is not every minor variation in form but only a vital defect in substance which can lead to a finding of non-compliance with the provisions of Section 81(3) of the Act with the consequences under Section 86 (1) to follow.

[8] It is thus absolutely clear that the result of an election can be questioned under the provisions of the Act only and that too, on the grounds enumerated in Section 100 of the Act. The election petition must set out the material facts on the basis of which the charge can be made and in the event of the material facts not being stated in the petition, the same is liable to be dismissed. Admittedly, the expression 'material facts' is not defined in the Act. However, the Hon'ble Supreme Court has, time and again, laid down that all facts necessary to formulate a complete cause of action should be termed as 'material facts'. In the context of a charge of corrupt practice, the expression 'material facts' would mean all the basic facts constituting the ingredients of the particular corrupt practice which the petitioner is bound to substantiate before he can succeed on that charge. Whether in an election petition, a particular fact is material or not, and as such, required to be pleaded is a question which depends on the nature of the charge leveled, the ground relied upon and the special circumstances of the case. In other words, all those facts which are essential to clothe the petitioner with a complete cause of action are

'material facts' which must be pleaded and failure to plead even a single material fact amounts to disobedience of the mandate of Section 83(1)(a). The expression 'material facts' is different from the expression 'material particulars' which as contemplated under clause (b) of Section 83(1) would mean all the details which are necessary to amplify, refine, and embellish the material facts already pleaded in the petition in compliance with the requirements of clause (a). What particulars could be said to be 'material facts' would depend upon the facts of each case and no rule of universal application can be laid down. However, all basic and primary facts which must be proved at the trial by the party to establish the existence of a cause of action or defence are material facts and must be stated in the pleading by the party. The object and purpose of pleading 'material facts' is to enable the opposite party to know the case he has to meet

and in the absence of such a pleading, a party cannot be allowed to lead evidence. The requirement under Section 83(1)(a) of the Act in contradiction to Section 83(1)(b) of the Act is that the election petition needs to contain only a concise statement of the material facts and not material particulars. For purpose of considering a preliminary objection as to the maintainability of the election petition, the averments in the petition should be assumed to be true and the court has to find out whether these averments disclose a cause of action or a triable issue. However, the court cannot dissect the pleadings into several parts and consider whether each one of them discloses a cause of action. The petition has to be considered as a whole and there cannot be a partial rejection of the petition. In all cases of preliminary objection, the test is to see whether any of the reliefs prayed for could be granted to the petitioner if averments made in the petition are proved to be true.

[9] In the present case, the election petition was filed by the respondent No.1/ petitioner challenging the election of the applicant / respondent No.1 on the inter-alia grounds that the nomination paper of the application / respondent No.1 has been improperly accepted by the Returning Officer and that the applicant/ respondent No.1 has made false statement in his affidavit to the effect that he has no Government dues except in respect of motor vehicle advance. The material facts made in the election petition as required under Section 83 of the Representation of People Act, are that firstly, the applicant/ respondent No.1 has failed to open a bank account at least one day prior to the date of filing the nomination for the reason that on the day nomination, the scrutiny of the applicant/ respondent No.1's nomination paper was deferred for some time and when his nomination was again considered, one of his agents brought a pass book of an account opened that day only. When the objection was raised by the agents of the respondent No.1/ petitioner with respect to the nomination of the applicant/ respondent No.1, the matter was referred to the Election Observer or Expenditure Observer but without waiting their views, the Returning Officer accepted illegally the nomination of the Applicant/ Respondent No.1. The turmoil that took place during the course of scrutiny came to be published in the newspaper "Huyen Lanpao" on the next day. Secondly, the applicant/ respondent No.1 has filed a false affidavit by concealing his Government dues in respect of his landed property at Keirao Bitra under Patta No.54/410 of village No.54-Wangkhem which the respondent No.1/ petitioner came to know from the demand letter dated 20-04-2017 of the SDC, Keirao Mitra. Thirdly, on 07-04-2017 the applicant/ respondent No.1 submitted his statement of account supported by an affidavit but it did not show the expenditure for three days from the date of nomination i.e. 13-02-2017 to 15-02-2017, although he deposited a sum of Rs.10,000/- in the treasury under TRS No.453507 dated 13-02-2017 without the same being shown in the statement of account. In view of the aforesaid pleadings, the contention of the learned counsel appearing for the applicant/ respondent No.1 has no substance and merit. It cannot be said that no material facts have been pleaded in the election petition. So long as the petition

discloses some cause of action or raises some questions fit to be decided by the court, the mere fact that the case is weak and not likely to succeed, is no ground for dismissing it. Therefore, the trial can continue on merits and it is a different matter if the material facts as stated in the petition, are not sufficient to prove the allegations. Whether or not the respondent No.1/ petitioner is able to prove the allegations, is a matter of evidence which can be considered only at the stage of trial, as has been held by the Hon'ble Supreme Court. In view of the above, this court is of the view that there had been substantial compliance with the provisions of Section 83(1)(a) of the Act and since the application is devoid of any merit, the same is liable to be rejected by this court.

[10] In view of the above, the application being MC (El. Pet.) No. 8 of 2018 is dismissed with no order as to costs.