

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
KANCHEEPURAM DISTRICT AT CHENGALPATTU.**

Present : **Tmt.J.Mavis Deepika Sundaravadhana, M.A.,M.L.,**
Principal District Judge, Chengalpattu.

Friday the 23rd day of June 2023

I.A.No.3/2021
in
I.A.No.1/2021
in
O.S.No.157/2021

C.Monesh . . . **Petitioner / 4th Respondent / 4th Defendant.**

/Vs/

M/s. Cee Dee Yes Infrastructure Solutions Private Limited,

rep. by its Managing Director Brunth D.Sundar

Adyar, Chennai - 600 020.

. . . **Respondent / Petitioner / Plaintiff.**

This petition came up before me in this court for final hearing on 5.6.2023, in the presence of Thiru.R.Manivel, Advocate for the petitioner and Tvl.N.Premkumar, P.Gurusamy, R.Prsanna Vineeth Durai, M.Chinnathambi and RajaSekar, Advocates for the respondent, upon hearing the arguments of both side counsel, perusing the entire records and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition is filed by the petitioner under Order 9 Rule 7 CPC, praying to set aside the exparte order dated 19.4.2021 passed against him in I.A.No.1/2021 in O.S.No.157/2021.

2. The case of the petitioner in brief :

The above petition in IA was originally filed by the plaintiff for interim injunction. The main suit and IA application came on 19.4.2021 for the first hearing in the service stage and the petitioner filed vakalat in the section since the case was not in the special list of hearing. But unfortunately the suit was wrongly called for hearing and the petitioner is wrongly set exparte in the said IA alone not in the main suit. The petitioner realized the same on checking the adjudication of the case on e-court. Since the petitioner filed vakalt on time and the Bench Clerk also received the same there is no mistake from the petitioner side. Unless the exparte order is set-aside, great prejudice and irreparable loss and hardship will be caused to the petitioner. The balance of convenience is very much in favour of petitioner. Hence, the petition.

3. The averments of counter filed by the respondent in brief :

The affidavit does not disclose any reason about the non-appearance of the petitioner herein before this court during the effective date of

hearing on 19.4.2021. The counsel for petitioner would have been vigilant to follow up and pursue the matter after he allegedly stated to have been filed vakalat in the section. The petitioner has not furnished any details of the filing of his vakalat before the section viz., when it has been filed and what is the filing number is given to their vakalat. The affidavit is silent about the fact that when the petitioner came to know about the order of exparte passed against him and without disclosing the reason for each and every day's delay in filing the application. Hence, prayed for dismissal of the petition.

4. The point that arises for consideration is whether the application is liable to be allowed.

5. Point :

This petition is filed by the petitioner under Order 9 Rule 7 CPC praying to set-aside the exparte order passed against him on 19.4.2021. On the other hand the respondent denied the averments made by the petitioner. The petitioner alleged that he filed vakalat in the section as the case was not listed for hearing. When a case is at service stage, the petitioner should have been cautious whether his vakalath had taken on file. No proof to substantiate the alleged claim of the petitioner. Hence, the reason stated by the petitioner is not acceptable. However in the interest of justice, the petition will be allowed on

payment of Rs.500/- as cost to the District Mediation Center, Chengalpattu, on or before 14.07.2023, otherwise the petition stands dismissed.

6. As the result, the petition will be allowed on payment of Rs.500/- as cost to the respondent / plaintiff on or before 14.07.2023, otherwise the petition stands dismissed. Call on 17.7.2023.

Dictated by me to the steno-typist, computerized by her directly, corrected and pronounced by me in open court, on this the 23rd day of June 2023.

Principal District Judge,
Chengalpattu.

Both side witness and exhibit :
Nil.

Principal District Judge,
Chengalpattu.