

In the Court of the Principal District Judge,
Principal District Court , Kancheepuram.

PRESENT: Thiru.Pa.U.Chemmal,M.A.,LL.M.,
Principal District Judge,
Principal District Court,
Kancheepuram.

This Thursday the 17th day of October 2024

IA.No.5/2024 in Election OP. No.77/2021

The Election Officer/ Block Development officer,
Block Development Office,
Kundrathur Union at Padappai,
Kanchipuram District-601301

--- Petitioner/3rd Respondent.

//vs//

Anandhi W/o. Mageshkumar

---Respondent/Petitioner.

This petition is coming on this day 30.09.2024 for final hearing before me in the presence of Thiru.A.K. Ramesh, Government Pleader appearing for the petitioner / 3rd Respondent, M/s. P. Sivakumar, S. Karthikeyan, L. Ganesapandy, Counsels appearing for the respondent and upon hearing the arguments of both side and upon perusal of records and having stood over for my consideration till this day, this court delivered the following

ORDER

This petition is filed by the petitioner under Order 9 Rule 7 and Sec. 151 of CPC. To set aside ex parte order dated 06.10.2023 in the main OP.

2) **The averments found in the affidavit of the petitioner in brief are as follows:**

The petitioner is the 3rd respondent in the main OP. The above case has been filed by the above respondent/petitioner against them. The above case has been posted for filing of counter on 06.10.2023. As the file and documents were mingled and misplaced with some other files and in order to gather the same there was some delay happened to prepare Parawar remarks for counter and as the counter was not file, they set ex parte. Now the counter is filed herewith. So, in the interest of justice the above Ex parte order in the above case has to be set aside recording the counter. Otherwise, the petitioners will be suffered very much. Hence, petition may be allowed .

3) **Brief averments in the counter are as follows:**

This respondent denies all the allegations in the petition except those that are specifically admitted herein. The petitioners/respondents 1 to 3 were set ex parte on 26.07.2023 and thereafter they kept quiet without filing any petition to set aside the ex parte order for a period of more than one year. On 13.06.2024 this respondent preferred CRP before the Hon'ble High Court, Madras against the order passed by this court in I.A.No.505/2021 in Ele. OP. 77/2021 and the same was numbered as CRP. No.1747/2024 and the same was disposed on 20.08.2024. While the said CRP was pending, the petitioners have approached this court with the

present false and vexatious petitioner to save their skin from the latches on their part.

It is very ridiculous on the part of the petitioner/3rd respondent being the head official of the block to state that “ the file and other documents were mingled and misplaced with some other files in the office. But the petitioner failed to explain the reason for delay in filing the counter by the 1st and 2nd petitioners/respondents . The petitioner/3rd respondent himself does not know on which date he was set ex parte and so, in the prayer column of the affidavit, the date of order of ex parte is mentioned as 06.10.2023 though ex parte order was passed against the petitioner was passed on 26.07.2023 . The intention of the petitioner in filing the present petition is only protract the proceedings. Hence, petition may be dismissed.

4) The point for determination that arose for consideration is

Whether the application to set aside the ex parte order dated 26.07.2023 passed as against the 3rd respondent in main Ele. OP. Is liable to be set aside or not?

5) **Point:**

Heard both side. On perusal of records the 3rd respondent in Election OP. 77/2021 was set ex parte on 26.07.2023 for non filing of counter. It seems to be first. Petitioner has filed this application on the ground that he is interested to contest the main O.P. The principle of Audi Alteram Partem – to be applied in this case. The 3rd respondent in this case should be allowed to be heard and present his case. Considering the facts and circumstances of the case, in order to give an opportunity to the petitioner/3rd respondent to present his case and to render substantial

justice, this court deems fit to allow this application without costs. The point is answered accordingly.

6. In the result, this petition is allowed without costs.

//This order has been dictated by me to the Stenographer, taken down, transcribed and typed by her in the computer, corrected and pronounced by me in the open Court on this the Thursday the 17th day of October 2024//

Sd./-Pa.U.Chemmal
Principal District Judge,
Principal District Court
Kanchipuram.

Exhibits and Witnesses on
both side: NIL

Sd./-Pa.U.Chemmal
Principal District Judge,
Principal District Court ,
Kanchipuram.

Draft/Fair Order
I.A.No. 5/2024 in
Ele.OP.No. 77/2021
D.D.17.10.2024
Principal District Court ,
Kanchipuram.

