

**IN THE COURT OF DISTRICT PRINCIPAL MUNSIF AT
KANCHEEPURAM**

**PRESENT: Tmt.R. Rajeswari,B.Com.,L.L.M.,
Principal District Munsif, Kanchipuram**

On Monday, this the 10th day of April 2023

**IA.No.5 of 2023
In
O.S.No.121 of 2019**

The Commissioner
Kanchipuram Municipality,
Kanchipuram

...Petitioner/Defendant

/Versus/

P.Ekambaram

...Respondent/Plaintiff

This petition has come up on 29.03.2023 for final hearing before me in the presence of Thiru.A.Raju, advocates for the petitioner and Thiru.R.Anbalagan and T.Sundaramurthy, advocates for the respondent and upon hearing the arguments of both sides and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following:

ORDER

1. This petition is filed under Order 9 Rule 7 and Section 151 of CPC to set aside the exparte order dated 30.09.2019.
2. The case of the petitioner as stated in his affidavit is as follows:-

The petitioner submitted that the above suit was posted for appearance and filing of written statement on 30.09.2019 on the day

the petitioner was engaged in CMA meeting in Chennai, So the petitioner was unable to appear before this court and also the petitioner was unable to file the written statement on 30.09.2019. On that day, the respondent/defendant called absent, as written statement not filed, the defendant set ex-party and the suit was posted for exparte evidence on 27.10.2022. Hence this petition.

3. The respondent filed his counter and the gist of the same is as follows:-

The respondent submitted that the respondent/plaintiff is having prima facie case and the balance of convenience is always with the plaintiff and hence the petitioner/defendant has drag on the case by filing the petition to set aside the exparte order passed by this court. The petitioner/defendant is wantonly comply the queries for the returned petition and hence this case is posted for eight hearings to take exparte evidence from 10.10.2022 and after 7th hearing the petitioner/defendant has filed this petition on 11.01.2023 and they need two months time. Hence this petition may be dismissed.

4. The point for consideration in this petition is whether there are valid reason to allow this petition or not?

The Point:

5. Heard both sides. After hearing both sides arguments, this court has carefully peruse the affidavit of petitioner, counter of respondent and entire case records. The original suit was filed by the Respondent/plaintiffs for to declare the Demand Notice dt 14.10.2018 issued by the defendant in Drinage Connection No.008/015/00037 and Old No.008/12272 is null and void; for a declaration that the Special Demand Notice in Tax Assessment No.008/12272 dt 06.02.2019 for enhancement of property tax is null and void; Permanent injunction restraining the defendant from taking coercive action such as attachment of the plaint schedule property.
6. Initially, the defendant have not appeared in the suit and not filed his written statement in the stipulated time. So the defendant was set exparte.
7. The petitioner stated in his affidavit, the petitioner was engaged in CMA meeting in Chennai, So the petitioner was unable to appear before this court and also the petitioner was unable to file the written statement on 30.09.2019. Now, the petitioner want to contest the said suit and the petitioner/defendant already enclosed his written statement along with this petition. Therefore he can be given another

opportunity to participate in this suit. The point is answered accordingly.

8. In the result, this petition is allowed. No Cost.

Dictated to the steno-typist, who directly typed the same in his computer, corrected and pronounced by me in open court, this the 10th day of April 2023.

Sd/-R.Rajeswari
PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM