

Application No. 3926 of 2025 in C.S.No. 301 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-09-2025

CORAM

THE HONOURABLE MR. JUSTICE P. DHANABAL

Application No. 3926 of 2025

in

C.S.No. 301 of 2021

Tushar Khaserao Pawar
Proprietor
M/s.Tushar Enterprises
Flat No. 2, Bakul Apartment
Sadguru Nagar
Near KJ Mehata High School
Nashik Road, Nashik – 422 101
Maharashtra.

....Petitioner

Versus

ITC Limited
Education and Stationery Products Business
Represented by its Management Accountant
Power of Attorney Holder
M.Hardik Patel.
ITC Centre, 5th Floor
No.760, Anna Salai
Chennai-600 002

...Respondent



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Prayer: Application has been filed by the petitioner seeking to set aside the *ex-parte* order in C.S.No. 301 of 2021, dated 23.07.2025.

For Petitioner : Mr.R. Sunil Kumar
For Respondent : Mr.K. Krishnamoorthy

ORDER

This application has been filed by the petitioner seeking to set aside the *ex-parte* order in C.S.No. 301 of 2021 passed by this Court, dated 23.07.2025.

2. The petitioner is the defendant and the respondent is the plaintiff in the main Suit.

3. According to the petitioner, the respondent/plaintiff has filed the suit for recovery of money. Originally, when the case was posted on 23.07.2025, due to the medical ailments, the petitioner/defendant was unable to attend the Court on that date. Due to the above reason, the petitioner/defendant was unable to attend the Court. Therefore, the petitioner/defendant was set *ex-parte* in the suit. Hence, this petition is

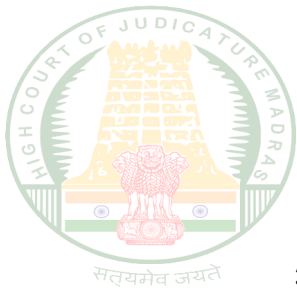


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filed seeking to set aside the *ex-parte* order passed against him.

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4. According to the respondent, the petitioner wantonly failed to appear before the Court. In fact, when the case was listed on 08.03.2023, there was no representation for the petitioner/defendant. Once again, when the case was listed on 15.03.2023 and 28.03.2023, there was no representation for the petitioner/defendant and subsequently, he took several adjournments. Thereafter, the petitioner has filed written statement along with condone delay application in filing the written statement and the same was allowed. However, the matter has been referred to the learned Additional Master-III for recording evidence and cross-examination of the witnesses. PW1 was examined and thereafter, the case was listed on 21.03.2024. This Court directed the learned Additional Master-III to record the evidence and mark the documents and the learned Additional Master-III also recorded the evidence but the petitioner/defendant has not appeared for cross-examination of PW1. Already sufficient opportunities were granted to the petitioner, but, he failed to avail those opportunities. Now, the petitioner has filed the present petition to delay the suit proceedings.



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5. Heard both sides and perused the records.

6. The petitioner/defendant has filed the present petition to set aside the ex-parate order passed against him on 23.07.2025. It is an admitted fact that the case was posted for recording evidence, PW1 also examined and marked the documents. At the time of the petitioner has failed to appear before the Court for cross-examination of PW1. Therefore, the petitioner was set *ex-parte*. However, the petitioner has filed this petition within a short time. The reason stated by the petitioner in the petition is that due to the medical ailments, the petitioner was unable to appear before the Court. Therefore, the above said reason is acceptable. In order to avoid multiplicity of proceedings and to give fair chance to the petitioner, it is appropriate to allow this petition. In view of the said circumstances, this Court is inclined to allow this petition.

7. Accordingly, this petition is allowed. No costs.

03-09-2025

MSM

Note: Registry is directed to send the case bundle before the learned **Additional Master-III** for recording evidence. The petitioner is directed to co-operate for speedy disposal of the suit proceedings without getting any unnecessary adjournments.



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P. DHANABAL, J.,

MSM

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