HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 22339/2026
CNR: RJHC021065092026 | URN: CW / 47070U / 2026

M/s KGN Enterprises, Through Its Proprietor Sonu Siddique Having its Office At 88/107A, Prem Nagar, Kanpur, Uttar Pradesh-208001.

----Petitioner

Versus

Ultra Polycoats A Unit Of M/s. K.G. Petrochem Limited, Through Its Authorized Office At C-171, Road No. 9J, VKI Area, Jaipur-302013.

----Respondent

For Petitioner(s)	:	Mr. K. N. Sharma, Adv.
For Respondent(s)	:	Mr. Aditya Vijay, Adv.

HON'BLE MR. JUSTICE ANAND SHARMA
Judgment

20/11/2026

1. The petitioner has preferred the present writ petition under Article 227 of the Constitution of India assailing the order dated 26.10.2026 passed by the Commercial Court No.1, Jaipur Metropolitan-II, Jaipur, whereby his application under Order 9 Rule 7 read with Section 151 CPC seeking setting aside of the *ex-parte* proceedings initiated against him vide order dated 30.04.2026 has been rejected.

2. Learned counsel for the petitioner submits that the non-appearance of the petitioner before the learned Commercial Court was neither intentional nor deliberate. It is contended that the summons received at the business premises of the petitioner were inadvertently misplaced by an employee and were not brought to the notice of the proprietor. It is further submitted that,

owing to the marriage of his younger sister, the proprietor was away from Kanpur and, upon subsequently discovering the envelope, he initially mistook the documents to be connected with an already pending criminal case. It was only upon contacting his counsel that he came to know about the present proceedings. Immediately thereafter, he took steps to ascertain the status of the suit and filed the application in question. Learned counsel submits that the application has been rejected on hyper-technical considerations and no irreparable prejudice would be caused to the plaintiff if the petitioner were permitted to participate in the proceedings.

3. Learned counsel appearing for the respondent-plaintiff opposes the writ petition and submits that the petitioner failed to appear despite service of summons and has failed to furnish satisfactory documentary evidence in support of the reasons assigned for his absence. It is, therefore, contended that the learned Commercial Court has committed no illegality in rejecting the application.

4. Heard learned counsel for the parties and perused the material available on record.

5. There is no dispute that the petitioner has approached the learned Commercial Court by filing an application under Order 9 Rule 7 CPC seeking permission to participate in the proceedings after coming to know of the *ex-parte* order dated 30.04.2026. The explanation furnished by the petitioner is that the summons received at his business premises were inadvertently misplaced by an employee and could not be brought to his knowledge in time.

The petitioner has also furnished an explanation for the delay in discovering the proceedings and has asserted that, immediately upon acquiring knowledge thereof, he took steps to participate in the litigation.

6. This Court finds that the explanation furnished by the petitioner, considered in its entirety, cannot be brushed aside merely on account of non-production of documentary evidence relating to the marriage of his sister or his travel. The application was supported by an affidavit, and the explanation furnished therein, particularly the assertion that the petitioner took steps immediately upon acquiring knowledge of the proceedings, deserved consideration in the proper perspective. Even otherwise, the petitioner has not sought to reopen a concluded trial or unsettle a final adjudication.

7. The approach of the learned Commercial Court, in the facts of the present case, appears to be unduly technical. The object of procedural law is to facilitate adjudication of disputes on merits and not to shut out a party from participating in the proceedings, particularly when the explanation for non-appearance is reasonably plausible and the inconvenience caused to the opposite party can be adequately compensated by costs. At the same time, the plaintiff cannot be made to suffer on account of the petitioner's failure to appear despite service of summons. The ends of justice would, therefore, be adequately served by permitting the petitioner to participate in the proceedings, subject to payment of realistic costs and strict adherence to the schedule fixed by the Commercial Court.

8. In view of the aforesaid, this Court is satisfied that the impugned order dated 26.10.2026 does not warrant sustenance and deserves to be set aside.

9. Consequently, the writ petition filed by the petitioner is hereby allowed. The impugned order dated 26.10.2026 passed by the Commercial Court No.1, Jaipur Metropolitan-II, Jaipur, is set aside. The *ex-parte* proceedings initiated against the petitioner vide order dated 30.04.2026 are also set aside, subject to the petitioner depositing costs of Rs.50,000/- (Rupees Fifty Thousand only) with the learned Commercial Court, for payment to the respondent-plaintiff, on or before the next date of hearing.

10. Upon deposit of the aforesaid costs, the petitioner shall be permitted to participate in the proceedings and contest the suit in accordance with law. The learned Commercial Court shall afford the petitioner an opportunity to participate in the proceedings from the stage at which the *ex-parte* proceedings were initiated, without permitting unnecessary adjournments. The petitioner shall cooperate in expeditious disposal of the suit and shall not seek any adjournment except for compelling reasons.

11. It is clarified that this Court has not expressed any opinion on the merits of the rival claims in the suit, which shall be adjudicated independently by the learned Commercial Court in accordance with law.

12. Pending application (s), if any shall also stand disposed of.

(ANAND SHARMA),J