

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 26.04.2019**

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP.(PD)No.2330 of 2018

and

CMP.No.14459 of 2018

1. Naveed Arshad
2. Anjana Menon

...Petitioners

1. The Marriage Officer,  
Under Special Marriage Act, 1954 &  
Sub-Registrar (in the Cadre of Dist. Registrar)  
Sub-Registrar Office,  
Anna Nagar, Chennai-600 040.

2. Rajunnisa Syed

...Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 17.07.2018 in C.M.P.No.411 of 2018 in A.S.No.201 of 2017 on the file of Principal Judge City Civil Court, Chennai.

For Petitioners : Mr. B. Mohan  
For Respondents : R1- No appearance  
R2- Mr. N. R. Narayanan

### **ORDER**

The above Civil Revision Petition is filed challenging the

order passed by the learned Principal Judge, City Civil Court, Chennai

in dismissing C.M.P.No.411 of 2018 in A.S.No.201 of 2017 which is filed by the revision petitioners for producing the documents for leading evidence which was taken out in order to bringing it to the notice of the Appellate Court that the documents have been produced by the first revision petitioner before the first respondent/Marriage Officer under the Special Marriage Act, 1954 namely Sub Registrar Office, Annanagar-40 to show that he has legally separated from the second respondent by giving a valid Talaq.

2. According to the affidavit, he has produced the Marriage Certificate dated 26.09.1993 to prove his Nikah dated 23.01.1992, Bank Statement of the first petitioner/revision petitioner proof of payment of a sum of Rs.8,00,000/- to the second respondent herein. Three Talaqs dated 14.8.2015, 15.09.2015, 16.10.2015 along with the proof of deliveries, lawyer's reply dated 04.09.2015 issued by the second respondent, lawyer's reply dated 11.09.2015 issued by the first revision petitioner and the Talaq Nama 06.03.2016 issued by the Chief Kazi. These documents had been produced before the first respondent, but however the first respondent in the order which is the subject matter of the appeal has not made a reference to the same in the list of documents though the order with quote from these documents.

3. In the counter filed by the second respondent, she has admitted to the filing of the said documents by the revision petitioners which is evident from a reading of paragraph 8 of her counter which reads as follow:

*" The petitioners have filed the same documents which they filed/relied before the 1<sup>st</sup> respondent and the 1<sup>st</sup> respondent had passed orders based on the same and hence the question of letting in evidence at the stage of appeal cannot be entertained. Evidence cannot be adduced to fill up the lacuna. The petitioners have filed this petition under order 41 Rule 27 of C.P.C. Which clearly defines, and states on what grounds additional evidence either oral or documentary can be allowed."*

4. Therefore it is clear that these documents had been produced by the revision petitioners before the first respondent/Marriage Officer. That apart, a reading of the order of the first respondent would also give credence to this above statement, as there is reference to the three Talaq notices that he had issued and also the Talak Nama issued by the Chief Kazi. In these circumstances and considering the fact that the respondent has not cared to appear before this court despite the notice and despite the fact that this Court has directed the matter to be listed under the

caption 'for orders' today, this Court proceeds to pass orders with reference to the submissions made on behalf of the revision petitioners. Taking into account the reply of the second respondent as well as the reference to the documents by the Marriage Officer, I am inclined to allow the said application. The observation of the learned Principal Judge that the appellant at the appellate stage is trying to fill up the lacuna would not apply to the instant case, since these documents have been made available even before the Marriage Officer and the said fact has also been conceded by the second respondent. In these circumstances, the order impugned is set aside and the revision petitioners are granted leave to produce the following documents which have been filed before the first respondent, and which shall be marked by the learned Judge.

a) Marriage Certificate dated 26.09.1993 for his Nikah dated 23.01.1992

b) Bank Statement of the First Appellant showing proof of payment of Rs.8,00,000/- to the second respondent towards Mahr and settlement upon Talaq,

c) Three Talaq letters dated 14.08.2015, 15.09.2015 and 16.10.2015 along with the copies of Postal proof of deliveries for the same.

d) Lawyer's reply dated 04.09.2015 caused by the second

respondent.

e) Lawyer's reply dated 11.09.2015 caused by the first appellant and

f) the Talaq Nama dated 06.03.2016 issued by the Chief Kazi.

5. Considering the fact that the application had been made before the first respondent as early as in 2015, the learned Principal Judge is directed to dispose of the First Appeal within a period of three months from the date of receipt of a copy of this order, after first receiving the documents and marking the same. No costs. Consequently, connected Miscellaneous Petition is closed.

26.04.2019

mrn

Index: Yes/No

Internet: Yes/No

Speaking order / Non-speaking order

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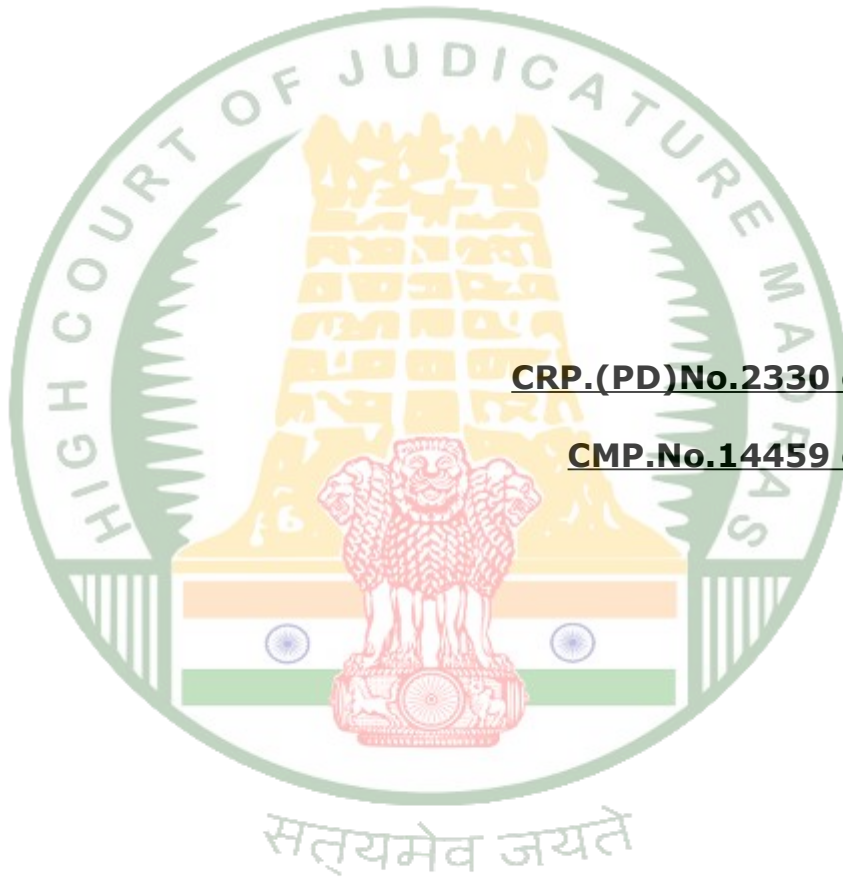
To,

1. The Principal Judge City Civil Court,  
Chennai.

2. The Marriage Officer,  
Under Special Marriage Act, 1954 &  
Sub-Registrar (in the Cadre of Dist. Registrar)  
Sub-Registrar Office,  
Anna Nagar, Chennai-600 040.

**P.T.ASHA, J.,**

**mrn**



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