

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP (NPD) No.798 of 2018

Sadiq Basha

... Petitioner

Vs

1.Saleema Parveen

2.Jamaath Committee
rep by its President
Jamia Masjid,
Gandhi Road,
Arakkonam

3.Office of the Chief Khazi,
Mufti Dr.Kazi Salahuddin Mohamed Ayub,
Government of Tamil Nadu,
No.323, T.T.K. Road,
Chennai-600016.

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the order dated 08.07.2017 made in I.A.No.89 of 2016 in O.S.No.42 of 2008 on the file of the District Munsif Court, Arakkonam, Vellore District.

For Petitioner : Mr.S.N.Subramani

For R1 : Mr.L.Gavaskar

For R2 : Mr.G.Jeremiah

For R3 : Notice Served

ORDER

This Civil Revision Petition is directed against the order dated 08.07.2017 made in I.A.No.89 of 2016 in O.S.No.42 of 2008 on the file of the District Munsif Court, Arakkonam, Vellore District, thereby dismissing the petition to condone the delay in filing to restore the suit.

2. The petitioner is the plaintiff and the respondents are the defendants in the suit. The petitioner filed a suit for declaration declaring that the Talak Nama dated 07.04.2007, 07.05.2007 and 07.06.2007 pronounced by the petitioner as valid in law. When the suit was posted for trial and the same was dismissed for default on 21.08.2014, he filed a petition to restore the suit with a delay of 515 days. He was examined himself as P.W.1 and three documents were marked as Exs.P1 to P3.

3. A perusal of the affidavit filed in support of the condone delay petition reveals that when the matter was posted for trial in the list on 21.08.2014, he was not able to attend the Court proceedings. His parents are aged and diabetic patients. He also shifted his house from Arakkonam to other house in the same Arakkonam Taluk. Because of change of his residence, the counsel could not contact the petitioner and

as such, he was not able to attend the Court for trial. During the cross examination, he admitted the fact that he shifted his house from one street to another street and he is having mobile phone. The petitioner is being plaintiff, he has to contact his Advocate to get along with the case. Therefore, the reason stated in the affidavit is not sufficient cause for the delay. The delay of 515 days should be satisfactorily explained. In the case on hand, the petitioner failed to explain the cause for the delay. Therefore, the Court below has rightly dismissed the petition.

4. In view of the above, this Court finds no illegality or infirmity in the order passed by the Court below. Accordingly, the Civil Revision Petition stands Dismissed. No costs.

22.04.2021

Speaking/Non-speaking order

Index : Yes/No

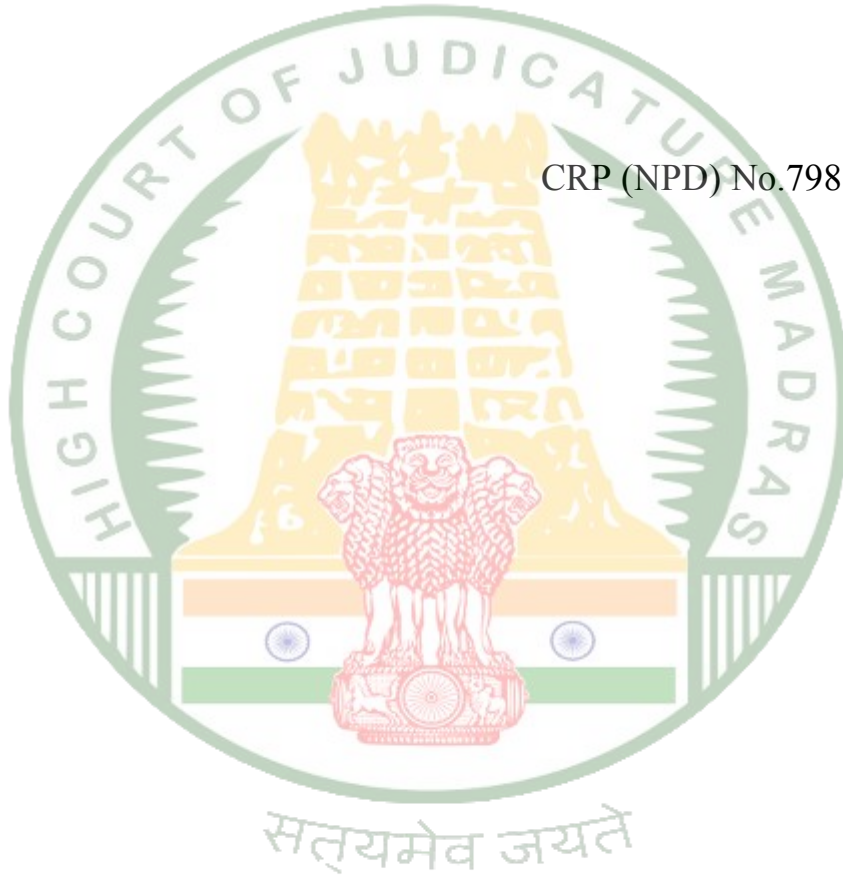
Internet : Yes/No

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To

The District Munsif Court,
Arakkonam.

G.K.ILANTHIRAIYAN, J.



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