



C.R.P. (PD) Nos.2862 and 2866 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

**C.R.P. (PD).No.2862 and 2866 of 2024 and
C.M.P.Nos.15237 and 15246 of 2024**

G.Chitrakala

... Petitioner/Defendant in
C.R.P.No.2862 of 2024

P.Jayanthi

... Petitioner/Defendant in
C.R.P.No.2866 of 2024

Vs.

J.M.Shah (since deceased)

1.Susila Shah

2.Magesh Kumar Sha

3.Ajay Kumar Sha

4.Rita Kirit Kumar

5.Anita

(1 to 5 are legal heirs of the deceased)

Represented by their power agent,

Padam Chand Jain @ P.C.Jain

... Respondents/Plaintiffs in
both the C.R.P's.

Prayer in C.R.P.No.2862 of 2024 : Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned District Munsif to number and dispose the petitioner's applications in SR.Nos.849 of 2019

Page No.1 of 6



C.R.P. (PD) Nos.2862 and 2866 of 2024

in I.A.No.1276 of 2011 in O.S.No.158 of 2001 pending on the file of the District Munsif Court, Chengelpet.

Prayer in C.R.P.No.2866 of 2024 : Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned District Munsif to number and dispose the petitioner's applications in SR.Nos.850 of 2019 in I.A.No.1277 of 2011 in O.S.No.159 of 2001 pending on the file of the District Munsif Court, Chengelpet.

In both the C.R.P's:-

For the Petitioners : Mr.B.Sathsh Sundar

COMMON ORDER

The C.R.P.No.2862 of 2024 is filed to direct the learned District Munsif, Chengalpet, to number and dispose of the petitioner's application in SR.Nos.849 of 2019 in I.A.No.1276 of 2011 in O.S.No.158 of 2001.

The C.R.P.No.2866 of 2024 is filed to direct the learned District Munsif to number and dispose the petitioner's applications in SR.Nos.850 of 2019 in I.A.No.1277 of 2011 in O.S.No.159 of 2001.

2. The petitioners are sisters and the respondents are one and the same in both the Civil Revision Petitions. Grounds raised in these Civil Revision



C.R.P. (PD) Nos.2862 and 2866 of 2024

Petitions are also same and hence by way of this common order, both the Civil Revision Petitions are disposed of together.

3. In the Trial Court, no proper summons were served on the petitioners, they did not appear and they were set as *ex parte* on 09.10.2001. Thereafter, execution petition has been initiated by the respondents/plaintiffs and the petitioners had the knowledge about the execution petition only in the year 2011. Immediately, they engaged a counsel and filed an application to set aside the *ex parte* decree and I.A.Nos.1276 and 1277 of 2011 filed. The petitioners not aware of the *ex parte* decree, dismissal of I.A. For the reason, the petitioners handed over the case for handling to Mr.Murugan, Advocate, who helped to be a relative, who engaged a local Advocate. Since Mr.Murugan passed away, there was disconnect and some confusion in perusing the case.

4. On coming to know about the same, the petitioners have filed the above two restoration petitions in SR.No.849 of 2019 and 850 of 2019. The Court below neither taken the same on file nor considered it on merits and



kept the matter pending.

WEB COPY

5. In the meanwhile, the respondents are proceeding with the execution petition and the execution petition has been adjourned for filing of fresh sale deed and for further proceedings. Lastly, the case came up on 31.07.2024 and posted 21.08.2024.

6. Hence, considering the submissions and on perusal of materials, it is seen that the Trial Court has kept the matters pending endlessly. The restoration petition filed by the petitioners have to be decided either way i.e., on merits or by hearing the parties. The Trial Court is directed to consider the petitioners' restoration petitions in SR.Nos.849 of 2019 in I.A.No.1276 of 2011 in O.S.No.158 of 2001 and SR.Nos.850 of 2019 in I.A.No.1277 of 2011 in O.S.No.159 of 2001 and also dispose of the same on merits and in accordance with law, within a period of one month from the date of receipt of a copy of this order. Till such time, the execution proceedings shall be kept in abeyance.



C.R.P. (PD) Nos.2862 and 2866 of 2024

7. With the above directions, the Civil Revision Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

02.08.2024

Jer

Index: Yes/ No

Internet: Yes/ No

Speaking Order/ Non Speaking Order

Neutral citation: Yes/No

To

The District Munsif, Chengalpet.



WEB COPY



C.R.P. (PD) Nos.2862 and 2866 of 2024

M.NIRMAL KUMAR,J.

Jer

**C.R.P. (PD).Nos.2862 and 2866 of 2024 &
C.M.P.Nos.15237 and 15246 of 2024**

02.08.2024