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C.R.P. No.3691 of 2024 and C.M.P.No.20024 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

**C.R.P. No.3691 of 2024**  
**& C.M.P.No.20024 of 2024**

B.Jagdish

... Petitioner

Vs.

R.Rani

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of Civil Procedure Code as against the fair and decretal order dated 08.08.2023 passed in E.A.No.2 of 2022 in E.P.No.3459 of 2019 in O.S.No.9535 of 2010 on the file of XXVI Assistant City Civil Court, Chennai.

For petitioner : Mr.Suchit Anant Palande

For Respondent : Not ready in notice

### **ORDER**

The present civil revision petition has been filed challenging the order passed in E.A.No.2 of 2022 in E.P.No.3459 of 2019 in O.S.No.9535 of 2010 dated 08.08.2023 on the file of XXVI Assistant



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2. The case in brief is that the respondent herein had filed a suit in O.S.No.9535 of 2010 on the file of V Additional City Civil Court, Chennai, in which, the learned trial Judge had passed an ex-parte decree vide judgment dated 29.10.2018. Based on the judgement and decree passed in O.S.No.9535 of 2010, the respondent/decreed holder had filed E.P.No.3459 of 2019 for attachment and sale of the property for recovery of a sum of Rs.22,24,626/- with further interest. Subsequently, seeking amendment of the schedule of property in the E.P., the respondent herein/decreed holder had filed E.A. No.2 of 2023, in which, learned XXVI Assistant Judge, by an order dated 08.08.2024, had allowed the proposed amendment. Challenging the said order, the judgment debtor has filed the present civil revision petition.

3. When the matter was taken up for hearing, learned counsel for the petitioner would submit that pending the Execution Petition, the petitioner/judgment debtor had filed A.S.No.171 of 2020, in which, this Court, vide judgment dated 02.09.2024, had set aside the judgment of the trial Court and thereupon, the Execution Petition in E.P.No.3459 of 2019 filed by the respondent herein/decreed holder has been dismissed as



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infructuous on 22.10.2024 and thereby, nothing survives for adjudication in this civil revision petition and seek for dismissal of the civil revision petition.

4.The learned counsel for the petitioner has also filed a Memo dated 24.10.2024, which reads as follows:

“1.The petitioner above named has filed First Appeal A.S.No.171 of 2020 before the Hon'ble High Court, Chennai, challenging the Judgment and Decree passed in O.S.No.9535 of 2010 passed by the Hon'ble V Additional City Civil Court at Chennai.

2.The above A.S.No.171 of 2020 has been allowed by the Lordship Justice T.V.Tamilselvi by order dated 02.09.2024 and has set-aside the Trial Court order dated 29.10.2018 passed by the learned V Additional Judge, City Civil Court, Chennai in O.S.No.9535 of 2010.

3.It is submitted that the E.P.No.3459 of 2019 has been dismissed as infructuous on 22.10.2024 upon perusal of the order passed in above A.S.No.171 of 2020.

Hence it is humbly prayed that this Hon'ble Court



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may be pleased to record this memo and permit me to withdraw the above C.R.P. And pass such further or other Orders and thus render justice.”

5. In view of the above submission and the memo filed by the petitioner and also the fact that the Executing Court has dismissed the Execution Petition in E.P.No.3459 of 2019 on 22.10.2024 as infructuous, nothing survives for adjudication in this civil revision petition and accordingly, the civil revision petition stands dismissed as infructuous. The Memo dated 24.10.2024 shall form part of the record. No costs. Consequently, connected C.M.P.No.20024 of 2024 is closed.

**29.10.2024**

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To

1. XXVI Assistant City Civil Court, Chennai.



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**A.D.JAGADISH CHANDIRA, J.**

raa

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**29.10.2024**