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C.R.P.(NPD) No.2317 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD)No.2317 of 2017  
and C.M.P.No.10922 of 2017

Lakshmi Thaiyar Ammal

... Petitioner

vs.

1.N.Dhananjayan

2.T.Navaneethammal

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the order dated 01.12.2009 passed in I.A.No.21843 of 2008 in O.S.No.8837 of 2008 on the file of Learned XV City Civil Court, Chennai in respect of lands comprised in Survey Nos.106/9, 106/13, 110/8, 103/9 & 91/3A measuring to an extent of Hectares 0.70.85 Ares situated at No.134, Orakadam Village, Mathur Post, Sriperumbudur Taluk, Kancheepuram District.

For Petitioner: Mr.R.Murali

For Respondents: R1 - No Appearance  
R2 - Died



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## **ORDER**

The petitioner is a third party to the suit. The plaintiff levied a suit for recovery of money against the defendant and attached the property. The suit was decreed on 01.12.2009. Pending the suit, the property was attached by the Court in I.A.No.21843 of 2008.

2.It is the case of the petitioner that she is the owner of the property and that her property has been attached for the dues of the second respondent/sole defendant in the suit. She has filed a revision as against the order in I.A.No.21843 of 2008.

3.When the suit itself has been decreed, the question of taking up the attachment application does not arise. Moreover, I cannot revise an order under Order 38 of Code of Civil Procedure when it is an appealable order. Apart from that, it is the plaintiff who has to file a claim petition before the lower Court under Order 38 Rule 8 of the Code of Civil Procedure or under Order 21 Rule 58 of the Code of Civil Procedure.

4.Without resorting to either provision, the petitioner has filed the Civil Revision Petition challenging an attachment in which the suit itself is disposed of. The remedy itself is misconceived. Reserving the right of the party to file an application under Order 38 Rule 8 or under Order 21



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Rule 58 of the Code of Civil Procedure, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**14.07.2023**

Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation: Yes/No  
vs

To

The XV City Civil Court,  
Chennai.



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**V. LAKSHMINARAYANAN,J.**

VS

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