



C.R.P.No.1511 of 2022

WEB C **R.SUBRAMANIAN, J.**

Challenge in this revision is to the order of the Trial Court, dismissing an application filed under Order 38, Rule 8 of C.P.C., seeking to raise an attachment by a third party claim. Order 38, Rule 8 provides for adjudication of claims to property attached before attachment and it reads as follows:-

"8.Adjudication of claim to property attached before judgment:- Where any claim is preferred to property attached before judgment, such claim shall be adjudicated upon in the manner herein before provided for the adjudication of claims to property attached in execution of a decree for the payment of money."

2.The procedure that is to be followed for adjudication of claims in respect of attachments made in execution proceedings should be followed in respect of attachments before judgment also. Order 21, Rule 58 provides for adjudication of claims over property that are attached in execution of a decree. Sub-rule 4, Rule 58 of Order 21 provides that where the claim or objection is adjudicated was under this Rule 58, the order made there on will have some force and will be subject to some condition as to appeal or otherwise **as if it were a decree.**



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3.In view of the above, the order impugned in this revision is appealable. Hence, the revision is not maintainable. However, it is seen that the order impugned has been passed by the Principal District Court. Therefore, the appeal would lie before this Court only. Hence, the Registry is directed to convert this revision into Civil Miscellaneous Appeal and place it before the appropriate Court as per roaster.

19.01.2024

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