

W. A. (MD) No. 2793 of 2025

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**RESERVED ON : 17 / 08 / 2026**

**DELIVERED ON : 08 / 09 / 2026**

**CORAM:**

**THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN  
AND**

**THE HON'BLE MR. JUSTICE R.SAKTHIVEL**

**W.A. (MD) No.2793 of 2025**

**and**

**C.M.P. (MD) No.15674 of 2025**

1. The Registrar of Co-operative Societies (Housing)  
Office of the Registrar of Cooperative Societies  
No. 493, Tamil Nadu Housing Board,  
Anna Salai, Nandanam,  
Chennai. Now residing at No.48  
Ritherdon Road, Vepery,  
Chennai 07.

2. The Deputy Registrar of Co operative Societies (Housing)  
Office of the Deputy Registrar of Co-operative Societies,  
Madurai Region, Baskar Complex  
Chinna Chokkikulam,  
Madurai

3. The Sub-Registrar of Co-operative Societies (Housing)  
Office of the Sub-Registrar of Co-operative Societies,  
Madurai.

...Appellants /  
Respondents 1 to 3

***Versus***



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1. M Rajalakshmi  
W/o.Mohan  
10 / 46, Alagar Nagar  
5<sup>th</sup> Cross Street,  
K.Pudur, Madurai.

... 1<sup>st</sup> Respondent /  
Writ Petitioner

2. The Sub Registrar  
Registration Department,  
Thallkulam Sub Registrar,  
Thallakulam,  
Madurai.

... 2<sup>nd</sup> Respondent /  
4<sup>th</sup> Respondent

**PRAYER in W. A. (MD) No.2793 of 2025:** Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the Order dated January 28, 2025 passed in W.P. (MD) No.29571 of 2024 on the file of this Court.

**PRAYER in C.M.P. (MD) No.15674 of 2025:** Civil Miscellaneous Petition filed praying to stay the operation of the Order dated January 28, 2025, passed in W.P. (MD) No.29571 of 2024, pending disposal of the Writ Appeal and pass such further or other orders as the Hon'ble Court deems fit.

For Appellants : Mr. S.I.Muthiah  
Additional Government Pleader

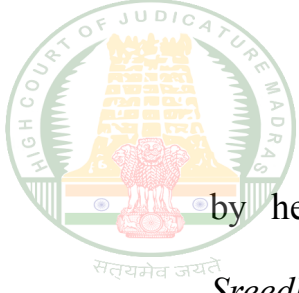
For Respondent : Mr.A.Joseph Jerry  
No.1

**J U D G M E N T****R.SAKTHIVEL, J.**

This Writ Appeal is filed at the instance of the respondents in W.P. (MD) No.29571 of 2024, challenging the Order dated January 28, 2025 passed by a learned Single Judge of this Court therein. The prayer in the Writ Petition is for a Writ of Certiorarified Mandamus seeking to quash the 'Attachment Order in Na.Ka.No.1560/2018/VA, dated October 31, 2018 passed under Section 167 of the Tamil Nadu Co-operative Societies Act, 1983', which shall hereinafter be referred to as the 'Impugned Attachment Order'.

2. For the sake of clarity and convenience, the first respondent herein who had filed the aforesaid Writ Petition will be addressed as the writ petitioner, while the appellants herein will be continued to be addressed as appellants.

3. The case of the writ petitioner in the Writ Petition is that she purchased a house site in Survey No.197-1, situate at Nallamani Nagar, K. Pudur, Thallakulam Taluk, Madurai District, *vide* Sale Deed dated April 09, 2008 bearing Document No.1597 of 2008. The said property was her self-acquired property, purchased using the *Sreedhanam* given

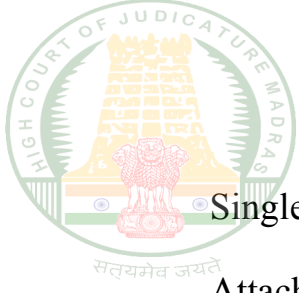


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by her parents at the time of her marriage. Apart from the said *Sreedhanam*, she was also engaged in the money-lending and finance business, from which she earned a substantial income. The said property absolutely belonged to the writ petitioner.

**3.1.** Her further case in the Writ Petition is that her husband, namely C.Mohan, served as the President of the third respondent's Society. A surcharge proceedings was initiated against him. Pursuant to the same, the property belonging to the writ petitioner, along with two other properties, were attached by the Impugned Attachment Order. The writ petitioner came to know about Impugned Attachment Order only recently, when she attempted to sell the property. Accordingly, she prayed that the writ petition be allowed.

**4.** The learned Single Judge after hearing both sides, concluded that the property in question was purchased by the writ petitioner on April 09, 2008 much prior to initiation of surcharge proceedings under Section 87 of 'the Tamil Nadu Co-operative Societies Act, 1983' ['1983 Act']. On the date of Impugned Attachment Order, the property in question stood in the name of the writ petitioner. Hence, the Impugned Attachment Order is liable to be set aside. Accordingly, the learned



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Single Judge allowed the Writ Petition and set aside the Impugned Attachment Order. Feeling aggrieved, the Respondent Nos.1 to 3 therein, have preferred this Writ Appeal.

5. Mr.S.I.Muthiah, learned Additional Government Pleader appearing for the appellants would submit that the first respondent's husband - C.Mohan, during his tenure as the President of third respondent's Society namely Madurai Co-operative Building Society, had misappropriated money to the tune of Rs.42,863/-. Further, he had caused loss to the tune of Rs.45,98,621/- to the Society. The property in question had been purchased in the name of his wife / writ petitioner by utilizing the misappropriated funds. The writ petitioner has no wherewithal to purchase property. Moreover, the writ petitioner's husband has made a value addition to the said property by building a superstructure thereon. Only on these grounds, Impugned Attachment Order was passed *qua* the property in question.

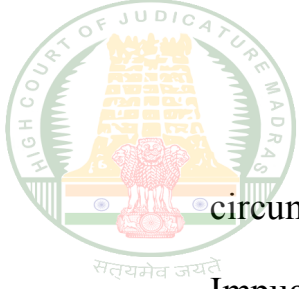
5.1. Further, he would attack the maintainability of the Writ Petition on the point that the writ petitioner has an efficacious and alternate remedy under the 1983 Act and 'the Tamil Nadu Co-operative Societies Rules, 1988' ['1988 Rules']. His submission would be that, if in case if



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the writ petitioner feels aggrieved by the Impugned Attachment Order, she ought to file a petition under Rule 135 of the 1988 Rules. The learned Single Judge without considering the alternate remedy available to the writ petitioner, as well as the fact that a huge amount was misappropriated by the writ petitioner's husband, allowed the Writ Petition. Accordingly, he would pray to allow the writ appeal and set aside the order passed by the learned Single Judge.

6. On the other hand, Mr.A.Joseph Jerry, learned Counsel appearing for the first respondent / writ petitioner would argue that, the writ petitioner purchased the Plot Nos.40 & 40A in Survey No.197-1 situated at Nallamani Nagar, K.Pudur, Thallakulam Taluk, Madurai District as vacant lands, by selling her gold jewels as well as using her personal earnings. Hence, the said property is her personal property. Further, the alleged misappropriation took place in the year 2013-2018, whereas the writ petitioner purchased the property in 2008, much before the alleged misappropriation. Therefore, the same cannot be attached in the surcharge proceedings against her husband. Without considering the said fact, the Impugned Attachment Order was passed, that too without any notice to the writ petitioner in violation of the principles of natural justice. The learned Single Judge after considering the entire facts and



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circumstances rightly allowed the Writ Petition and quashed the Impugned Attachment Order. There is no irregularity or illegality in the Order passed by the learned Single Judge. Accordingly, he would pray to dismiss the Writ Appeal.

7. This Court has considered both sides' submissions and perused the materials available on record.

8. It is stated by the writ petitioner that the property in question viz., Plot Nos.40 & 40A in Survey No.197-1 situated at Nallamani Nagar, K.Pudur, Thallakulam Taluk, Madurai District, was purchased by her *vide* Sale Deed dated April 9, 2008 for a sale consideration of Rs. 5,13,414/- from one Velu Konar. She has annexed a copy of her Sale Deed as well as Encumbrance Certificates in respect of the property in question. The writ petitioner had purchased the property in the year 2008 as vacant land.

9. This Court has carefully perused the description of the property contained in the Impugned Attachment Order, whereby the appellants had attached three properties. The first property is a house property situate in Survey No.198/3 said to be purchased by the writ petitioner's husband - C.Mohan *vide* Sale Deed dated August 01, 2008, whereafter he executed

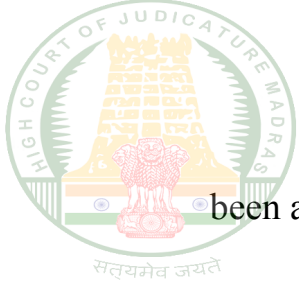


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a Lease Deed in favour of Sivasankar on April 27, 2018, and later the Lease Deed was cancelled on January 13, 2020. In the interregnum, the said property was attached on November 10, 2018 by the appellants. To be noted, after attachment, the writ petitioner obtained Gift Settlement Deed from her husband. Be that as it may, the said property in Survey No.198/3 is not the subject matter in the present Writ proceedings.

10. The second property attached *vide* the Impugned Attachment Order is in Survey No.196/2. It is stated that the said property was purchased by the writ petitioner's husband *vide* Sale Deed dated June 21, 2001 from one Subburam and later sold to P.Shanthi by him, *vide* Sale Deed dated January 24, 2007. The aforesaid property in Survey No. 196/2 is also not a subject property in the present Writ proceedings.

11. The third property attached *vide* Impugned Attachment Order is the property currently in question. Bare reading of the description of property thereof would show that it is a vacant land. So, it has been purchased as a vacant land and remained so. Hence, the contention of the appellants before this Court that the writ petitioner's husband has improve the property in question by putting up a superstructure thereon and therefore, the attachment is justifiable and valid, appears to have



been an improved version and probably an afterthought.

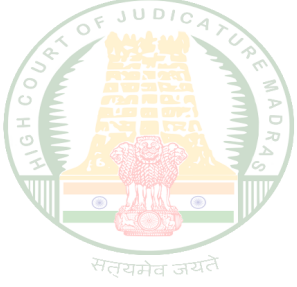
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**12.** The property in question was purchased by the writ petitioner and not her husband. The writ petitioner claims that she purchased the same using her self-income and by selling gold ornaments. Admittedly, the misappropriation allegedly took place during the period between 2013 and 2018. Whereas, the property has been purchased by the writ petitioner much before, in the year 2008. It was purchased as a vacant land and as it could be seen from the description of property in the Impugned Attachment Order, it has remained as a vacant land. In these circumstances, this Court fails to see any nexus between the misappropriation allegedly done by the writ petitioner's husband and the purchase of the property in question by the writ petitioner much before the alleged misappropriation. Moreover, the Impugned Attachment Order has been issued without any notice to the writ petitioner and she is not a party to the proceedings under Section 167 of the 1983 Act. The said provision reads thus:

***"CHAPTER XIX  
MISCELLANEOUS***

***167. Furnishing of security and attachment of  
property.-***

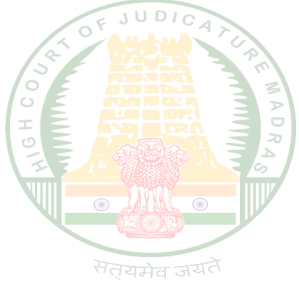
*(1) Where the Registrar is satisfied on*



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*the application of a registered society in respect of a reference made to him under sub-section (1) of section 90 or on the application of a liquidator appointed under section 138 in respect of the proceedings of such liquidator for determining the contribution to be made by a person to the assets of the society under clause (b) of sub-section (2) of section 139 or on the application of the board or liquidator or any creditor to the society or otherwise in respect of any inquiry ordered into the conduct of any person under section 87 that any party to the reference or the person, as the case may be, is about to dispose of or remove from the local limits of the jurisdiction of the Registrar, the whole or any part of his property with intent to defeat or delay the execution of any decision that may be passed on the reference or of any order that may be passed against him by the liquidator or the Registrar, as the case may be, the Registrar may, by order, direct the party or the person, to furnish security in such sum and within such time as may be specified in such order and to produce and place at the disposal of the Registrar when required, the said property or such part thereof as may be sufficient for the execution of any decision or*



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*order aforesaid.*

*(2) The Registrar may also in the order made under sub-section (1), or by a separate order, direct the conditional attachment of the said property, or such part thereof and such attachment shall have the same effect as if it had been made by a competent Civil Court:*

*Provided that no order for conditional attachment shall be made under this sub-section unless the Registrar, for the reasons to be recorded in writing, is satisfied that the whole or any part of the property will be disposed of or removed with intent to defeat or delay the execution of any decision or order of the liquidator or the Registrar, as the case may be."*

*[Emphasis supplied by this Court]*

**12.1.** As it could be seen from the proviso to sub-clause 2 of the said Section 167, the Registrar is bound to record reasons for his satisfaction that the whole or part of the property will be disposed of with an intent of defeating or delaying the proceedings, in writing. This provision is *pari-materia* to the concept of attachment before Judgment under Order XXXVIII Rule 5 of the Code of Civil Procedure, 1908 [C.P.C.]. It is



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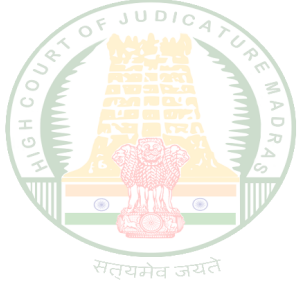
settled law that, unless it is proved that the property belongs to the defendant, attachment cannot be made under Order XXXVIII Rule 5 of C.P.C. In the present case, the Registrar appears to have attached the writ petitioner's property without any material or evidence connecting it to the alleged misappropriation or alleged misappropriator. As stated above, there is a lack of nexus. There is no reason whatsoever assigned in this regard or for his satisfaction *qua* the criteria specified in the proviso to Section 167 (2) of the 1983 Act. Hence, the Impugned Attachment Order does not qualify as a reasoned Order. For not being a reasoned Order and for no notice to the writ petitioner, the Impugned Attachment Order is in violation of the principles of natural justice.

**12.2.** Further, at this point, it is appropriate to refer to Rule 140 of the 1988 Rules, which reads thus:

***"140. Mode of making attachment before judgement.***

*(1) Attachment of property under section 167 shall be made in the manner provided in the foregoing rules of this chapter.*

*(2) Where a claim is preferred to property attached under sub-rule (1) such claim shall be investigated in the manner and by the authority specified in the foregoing rules*



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of this chapter.

(3) ...

(4) Attachment made under sub-rule (1).  
shall not affect the rights existing prior to the  
attachment of persons not parties to the  
proceedings in connection with which the  
attachment was made, nor bar any person  
 holding a decree against the person whose  
 property is attached from applying for the sale  
 of property under attachment in execution of  
 such decree.

(5) ..."

[Emphasis supplied by this Court]

**12.3.** A bare reading of sub-rule 4 of the afore-extracted Rule 140 would show that attachment shall not affect the rights of a person over the property, where such rights exist prior to the attachment, which means attachment of someone's else's property without any nexus would not bind that person. At the cost of repetition, this Court reiterates that there is no material connecting the property in question to the alleged misappropriation or alleged misappropriator.

**12.4.** Therefore, this Court is of the view that the appellants without any material or evidence, in a casual manner, have ordered for attachment



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of the writ petitioner's property *vide* the Impugned Attachment Order, that too without following the principles of nature justice.

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**13.** It is true that the writ petitioner has an alternative remedy under Rule 140 read with Rule 135, of the 1988 Rules. The alternate remedy rule is susceptible to certain limited exceptions, one among which is violation of principles of natural justice [See Paragraph Nos.7 to 9 of the Judgment dated July 31, 2026 of this Court made in ***The Inspector General of Registration -vs- V. Murugan*** in ***W.A. (MD) No. 3096 of 2025*** bearing neutral citation ***2026/MHC/3179***]. As stated *supra*, the Impugned Attachment Order *inter-alia* in respect of the writ petitioner's property was issued without any notice to the writ petitioner and hence, there is violation of principles of natural justice in this case. Since the appellants failed to follow the principles of natural justice, this Court is of the view that the Writ Petition is maintainable even in the presence of an alternate and efficacious remedy.

**14.** The learned Single Judge after considering the entire facts and circumstances rightly allowed the Writ Petition and quashed the Impugned Attachment Order *qua* Plot Nos.40 and 40A situate in Survey No.197-1 at Nallamanai Nagar, Thallakulam, Madurai District. This



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Court does not find any illegality or irregularity in the Order of the learned Single Judge. Therefore, the Writ Appeal is liable to be dismissed as devoid of merits.

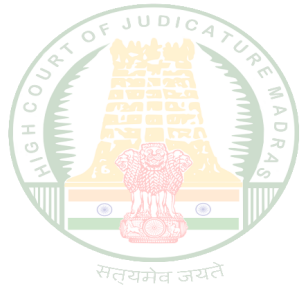
**15.** Resultantly, this Writ Appeal is dismissed as devoid of merits.

The Impugned Attachment Order, namely Attachment Order dated October 31, 2018 in Na.Ka.No.1560/2018/VA, stands raised *qua* the property in Survey No.197/1 alone, as ordered by the learned Single Judge. It is hereby clarified that no view is expressed by this Court on the Impugned Attachment Order *qua* the other two properties. In view of the facts and circumstances of this case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

(C.V.K.,J.) (R.S.V,J)  
08 / 09 / 2026

Index : Yes  
Speaking Order : Yes  
Neutral Citation : Yes  
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To:  
The Sub Registrar,  
Registration Department,  
Thallkulam Sub Registrar,  
Thallakulam,  
Madurai.



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**C.V.KARTHIKEYAN, J.**  
**AND**  
**R.SAKTHIVEL, J.**

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**JUDGMENT MADE IN**  
**W.A. (MD) No.2793 of 2025**

**08 / 09 / 2026**