

**Salakshi Vs. Lakshmayee**

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**SooperKanoon Citation :** [sooperkanoon.com/781600](http://sooperkanoon.com/781600)

**Court :** Chennai

**Decided On :** Aug-26-1908

**Reported in :** (1908)18MLJ571

**Appellant :** Salakshi

**Respondent :** Lakshmayee

**Judgement :**

1. The question for decision is whether the respondent has any-interest in the property - a dwelling house liable to be attached and sold in execution of a decree against her.

2. In a suit for maintenance brought by the respondent, a Hindu widow, against her step-son, his two sisters, wife and daughter, she obtained a decree against the 1st defendant, the step-son, for past and for future maintenance, which was made a charge on certain properties. There was-also a decree for surrender to her of. the 1st defendant's share of item No. 1 in the plaint for her residence during life. Her interest in that property is now attached by one of the other defendants in execution of the decree for costs decreed against her.

3. The Judge has held that she has no alienable interest, and that the attachment must, therefore, be set aside. In appeal, reliance is placed upon the dictum of Muthuswamy Aiyar J. in Ramanadham v. Rangammal I.L.R. (1888) M. 260. That was a suit in which the question for decision was as to the right of a Hindu widow

to live in the family house sold in execution of a decree for a debt binding on the family and purchased by a stranger in good faith but with notice of her claim to reside therein, in the course of his judgment negating her claim Muthuswamy Aiyar J. observed : 'A sale for the payment of her own debt would bind her interest in the house, whatever it might be.' This expression of opinion is referred to without disapproval in *JayantiSubbiah v. Alamelu Mangammal* I.L.R. (1902) M. 50. The right of the widow is to live in the husband's family house. She has no right to insist on residing in any particular house, and ordinarily when living with the members of her husband's family she must accept such reasonable arrangements for her residence therein as they make for her. The interest is, therefore, obviously one restricted in its enjoyment to her, and it is this interest which the decree gives to the respondent. If this interest can be transferred, what is it that the purchaser takes? It is the right to reside in the portion allotted to her, with the other members of the family living in the family house. This could not have been contemplated by the Hindu Law-givers. The case may be different where land or other property is allotted to a widow in lieu of her claim for maintenance. It appears to us, therefore, that the respondent has been given a portion of the house only for her personal use, and her right of enjoyment cannot be transferred-Recognizing a right of sale might be oppressive to the family and would result in allowing her a right to choose a separate residence even where she is not entitled to do so under the Hindu Law.

4. We agree with the Judge and dismiss this appeal with costs.

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