



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CMP Nos. 6979 of 2026
in CRP.No.1160 of 2022

OTTO India Private Ltd.,
32, Ezra Street, 7th Floor, Kolkatta - 700 001.
By Transferee of the Decree M/s. Papathi Reals,
No.139, T.H. Road,
Chennai - 600 019.
represented herein by its Partner shri. V.Baskaran.

..Appellant(s)

Vs

1. Venkatesh Coke and Power Ltd.,
No.6926 A/D1,
Chandrawal Road,
New Delhi 110 007.
2. Ravi Agarwal
S/o.Late Tara Chand Agarwal,
No.6926 A/D1,
Chandrawal Road,
New Delhi 110 007.

..Respondent(s)

PRAYER:- Civil Miscellaneous Petition filed under Section 151 of Civil Procedure Code to recall the order dated 18-04-2022 passed in CRP(NPD).No.1160 of 2021 by this Hon'ble Court.

For Appellant(s):

Mr.A.Navaneetha Krishnan
Senior Counsel
for Mr.Jaisankar Srinivas

For Respondent(s):

Mr.Ravi Kumar Paul
Senior Counsel
for Mr.M.V.Seshachari

**ORDER**

The present Civil Miscellaneous Petition had been filed to recall the order

dated 18.04.2022.

2. It is the contention of the learned Senior Counsel appearing on behalf of the petitioner that an order had been passed without even affording an opportunity by issuing notice to the petitioner and on that score alone, the order is liable to be recalled. He would submit that an ex-parte order came to be made as against the respondents. The respondents had filed an application to set aside the ex-parte order as well as the application to communicate the cessation of attachment order. The application to set aside the ex-parte order was allowed, however, the application to communicate the cessation of attachment order was negatived.

3. He would submit that the petitioner had filed an application to Review of the order and the respondents have also filed an application again to notify the order of cancellation of attachment. He would submit that as the order of Review was pending, a docket order was made by the Court which came to be challenged and there was a direction by this Court without notice to the petitioner that both the applications should be heard together. He would submit that E.A.No.7 of 2021 which was directed to be heard along with the application filed by the petitioner is an abuse of process, as a similar prayer that is sought

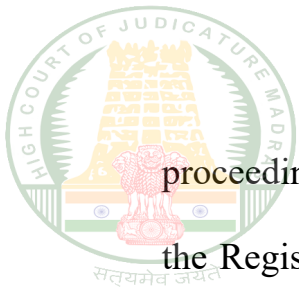


for in E.A.No.49 of 2017 had been dismissed and no appeal had been filed against the same. Hence, he seeks indulgence of this Court.

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4. Countering his arguments, learned Senior Counsel appearing on behalf of the respondent would vehemently contend that the CMP itself is a fraud that had been played upon by this Court. He would submit that it had been averred in the affidavit filed in support of this application that the petitioner had knowledge of the order passed in the CRP only in the year 2026. Placing reliance upon the docket order that had been made by the Court indicating that the order passed as early as in the year 2022, he would submit that a litigant who has been participated in the proceedings cannot feign ignorance of the order passed in the CRP and recorded by the Executing Court as early as in the year 2022. He would submit that having played fraud upon this Court, he had got an interim order restraining the Executing Court from proceeding with EA.No.7 of 2021. However, based upon the permission granted by this Court, EA filed by the petitioner had been dismissed by the Court and therefore, there has been no impediment upon the Court now to proceed with the EA filed by the respondent.

5. He would further submit that a Division Bench of this Court had held that once an order of attachment made in the course of the proceedings and being intimated to the Registering Authority on the final adjudication of the

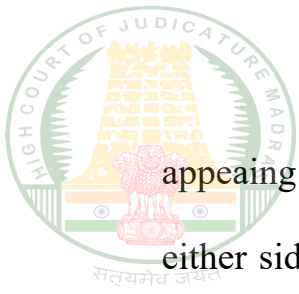


proceedings, if such attachment is raised, it is the duty of the Court to intimate the Registering Authority and in that context, he had also placed on record the judgment in the case of *N.Periasamy and another Vs Sub Registrar and Others* reported in **2024 SCC Online Mad 5250**. Hence, he prays this Court to pass necessary order.

6.I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

7. By order dated 18.04.2022, this Court had directed the execution application filed in EA.No.6 of 2021 to dispose of along with the EA.No.6 of 2020. Such order had been passed at the stage of admission itself without issuing any notice to the respondents. A joint disposal of both the applications cannot prejudice any of the parties. However, as a recall application was filed, noting that the order has been passed without issuing any notice to the respondents. This Court had granted an order of stay of further proceedings with regard to EA.No.7 of 2017 filed by the respondent and directed the Executing Court to proceed with the EA.No.6 of 2021 and dispose of the same before the next date of hearing.

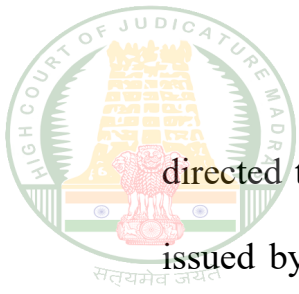
8. Accordingly, the EA.No.6 of 2017 had been taken up by the Executing Court and had been disposed of as admitted by the learned Senior Counsels



appearing on either side. Even though, the learned Senior Counsels appearing on either side had touched upon the merits of the EA.No.7 of 2021, this Court is not inclined to dwell upon the arguments made by the learned Senior Counsel with regard to the maintainability or the effect of the said application as the same is pending consideration by the Executing Court. As the application in EA.No.6 of 2021 had been disposed of there can be no impediment for the Executing Court in proceedings EA.No.7 of 2021 in the manner known to law.

9. In such view of the matter, this Court is of the view that the present Civil Miscellaneous Petition had become infructuous as it is the claim of the petitioner that the earlier direction by the Court had been set aside without notice to them would no longer survive as the said earlier direction by the Executing Court was to keep pending the EA.No.7 of 2021 till the disposal of the E.A.No.6 of 2021 and in that context, the order passed by this Court which is sought to be recalled also has lost significance, in view of the interim order passed by this court on 26.03.2026.

10. For the aforesaid reasons, the CMP stands closed. Considering the fact that the Execution Petition had been filed by the petitioner as early as in the year 2017 and taking into consideration the directions issued by the Hon'ble Apex Court in the case of **Periyammal (Dead) through Lrs & Ors. Vs. V.Rajamani and Anr. Etc.**, reported in **2025 INSC 329**, the Executing Court is



directed to expeditiously dispose of the same in compliance with the direction issued by the Hon'ble Apex Court in the aforesaid judgment. However, there shall be no order as to costs.

21-04-2026
(1/2)

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

GBA
Note: Issue Order Copy today

To

The Section Officer,
VR Section,
Madras High Court,
Chennai.



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CMP No. 6979 of 2



K.KUMARESH BABU, J.

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CMP No. 6979 of 2026

**21-04-2026
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