IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **25.03.2024**

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Writ Appeal No.271 of 2024
and
C.M.P.No.1684 of 2024

1.The District Registrar,
Office of the District Registrar,
Namakkal, Namakkal District.

2.The Sub-Registrar,
Office of the Puduchatram Sub Registrar,
Namakkal District. ... Appellants

Vs.

A.Abirami ... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 02.03.2023 passed in W.P.No.6585 of 2023.

For Appellants : Mr.B.Vijay
Additional Government Pleader
For Respondent : Mr.A.M.Esakkiappan

J U D G M E N T

(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.) The writ court directed the 2nd respondent/the Sub-Registrar to proceed with the registration of the document in question presented by the petitioner if it is otherwise in order, without insisting any of the reasons as contemplated under Rule 55-A of the Registration Rules.

2. Mr.B.Vijay, learned Special Government Pleader appearing on behalf of the appellants would state that Rule 55-A of the Registration Rules stipulates procedures to be followed for registering documents. Accordingly, the presentant of a document for registration should produce the original Title documents to establish his right. Regarding the Revenue records to be produced before the Registering Officer, proviso clauses to Rule 55-A stipulates circumstances about the non-availability of original Revenue records, which all are to be produced for registration. Therefore, the Rules have forcing the circumstances and providing remedial measures to the presentant of the document for registration. Thus, Rule 55-A of Registration Rules are to be followed scrupulously in order to avoid fraudulent registration of documents.

3. Mr.A.M.Esakkiappan, learned Counsel for the respondent would submit that the Settlement Deed produced by the respondent has been kept pending by the Sub Registrar, for the alleged reason that, under Rule 55A(i) of the Registration Rules, the original parent document shall be produced for registration. Thus, the writ petition was filed. The Writ

Court considered the case of the respondent for producing the certified copy and accordingly, directed the appellants to proceed with the registration of the document.

4. The very purpose and object of insertion of Sections 22-A, 22-B, 77-A and 77-B and Rule 55-A of the Registration Rules is to prevent fraudulent registration of documents. The provisions were inserted by way of Tamil Nadu Amendment, pursuant to the directions issued by the Hon'ble Division Bench of this Court.

5. Lucid procedures prevailing earlier resulted in registration of fraudulent documents thereby depriving the property right of the original owner of the properties. Thus, the laudable objects for the amendments under the Act and the Rules are to be followed scrupulously to make the Registration process in a transparent and full proof manner.

6. Large number of fraudulent documents and registration of double documents in respect of some properties are identified and several litigations both Civil and Criminal are pending. The untold agony of the land owners are unable to be addressed within a reasonable period of time.

These Civil ligations are taking long time for disposal and the parties and the litigants/original owners are frustrated from and out of the legal process. Therefore, dilution of the procedures as contemplated under the Act and Rules would result in serious consequences.

7. In respect of earlier orders of the learned Single Judge of this Court are placed for consideration, no doubt, writ court passed orders permitting the presentant of a document to produce the certified copy of the Title document for registration. However, the said procedures also resulted in certain difficulties for the department, since the original Title Deeds in those cases are sometimes deposited or mortgaged for loan transactions and for many other reasons. When the Title Deeds are subjected to certain conditional transactions and the documents are registered based on the Certified Copy of the Title Deeds, then also there is a possibility of fraudulent registration of document under the Registration Act.

8. Therefore, several mitigating circumstances are brought to the notice of the Court and thus, those orders passed by the respective learned Single Judges in the writ proceedings cannot be followed as a precedent for

the purpose of allowing the presentant of a document to produce the certified copy of the Title Deeds for registration. Diluting the vigor of the Rules resulted in adverse consequences. Thus we have to re-consider the issues for the purpose of following the procedures contemplated under Rule 55-A of the Registration Rules *stircto sensu.*

9. In W.P.No.2758 of 2023, final order has been passed on 08.02.2023, wherein, the learned Single Judge of this Court made an observation that the first proviso to Rule 55-A has been declared as *ultra vires.*

10. We have carefully gone through the said order dated 08.02.2023.

11. While considering the factual matrix involved in the said writ petition, the learned Single Judge has made an observation that the first proviso to Rule 55-A has been found to be involved and *ultra vires.* Consequently, it was held that the Registering Officer cannot refuse to register the document in the said case based on the first proviso to Rule 55-A.

12. The above observations are to be restricted with reference to

the facts and circumstances of the said case decided by the writ court in W.P.No.2758 of 2023. Pertinently, the first proviso to Rule 55-A had not been challenged in the said writ petition. The *vires* of the Rules is not challenged. Further, there was no declaration that the proviso to Rule 55-A is ultra vires to the constitution or repugnant to the statute. In the absence of establishing any one of those circumstances, the proviso clauses mere observations made in the said writ petition cannot be construed as precedent for the purpose of non-implementation of the first proviso to Rule 55-A of the Registration Rules.

13. Even in the concluding paragraph, the learned Single Judge in the said order has not declared that the first proviso to Rule 55-A is *ultra vires* to the constitution or supplanting the provisions of the Act.

14. Thus, citing the said order, the presentant of a document cannot be pleaded before the Registering Officer that first proviso to Rule 55-A cannot be insisted upon. All the provisos to Rule 55-A are intact in Rule Books. Therefore, it is to be complied scrupulously, when ever documents are presented for registration.

15. The second and third proviso to Rule 55-A of the Registration

Rules enumerates procedures to be followed in the event of non-availability of Revenue records to be produced for registration. The presentant of a document is bound to comply with the conditions stipulated in Rule 55-A for registering a document under the Registration Act.

16. In the present case, the writ court directed the appellants to proceed with the registration of the document in question presented by the petitioner if it is otherwise in order, without insisting any of the reasons as contemplated under Rule 55-A of the Registration Rules.

17. Therefore, the impugned order dated 02.03.2023, passed in W.P.No.6585 of 2023 is set aside and the Writ Appeal stands **allowed.** No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S.J.] [K.R.S.J.]
25.03.2024

Index	:	Yes/No
Speaking Order	:	Yes/No
Neutral Citation	:	Yes/No

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S.M.SUBRAMANIAM,J.
AND
K.RAJASEKAR,J.

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Judgment in
W.A.No.271 of 2024

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