



WEB COPY



W.P.No.2438 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.2438 of 2025

Mr.Sivakumar

... Petitioner

Vs.

The Joint Sub-Registrar No-1,
Dharmapuri District.

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned check slip issued by the respondent dated 07.01.2025 vide Refusal No.RFL/1 Joint Sub Registrar/3/2025 and quash the same as illegal and consequently direct the respondent to register the document presented by the petitioner.

For Petitioner : Mr.M.Ravi
For Mr.M.Munirathinam

For Respondent : Mr.U.Baranidharan
Special Government Pleader



W.P.No.2438 of 2025

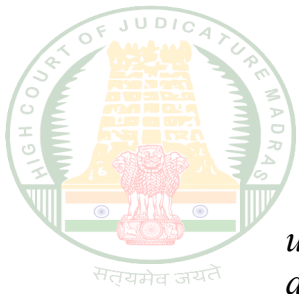
ORDER

WEB COPY This Writ Petition has been filed challenging the impugned refusal check slip dated 07.01.2025, whereby, the sale deed which was presented for registration was refused by the respondent on the premise that, the original title deed was not furnished.

2. That similar issue has already been dealt by this Court on more than one occasion. In this regard, it would be relevant to extract a portion of the earlier order in W.P.No.39677 of 2024, dated 13.06.2025, which reads as follows:

“2.2. The learned counsel for the petitioner placed reliance upon the judgment of the Supreme Court in the case of K. Gopi v. Sub-Registrar, reported in 2025 SCC OnLine SC 740 , wherein Rule 55A of Registration Rules was found to be ultra vires in the Registration Act, 1908, wherein it was held as under:

“13. In contrast, Rule 55A empowers the registering officer to refuse registration unless the presentant produces the original deed by which the executant acquired rights over the subject property and an encumbrance certificate pertaining to the property, obtained within ten days from the date of presentation. If the original deed is not available due to its antiquity, the registration of the presented document will be refused unless the presenter produces a revenue record that evidences the executant's right over the subject property. If the original deed is lost, the document cannot be registered



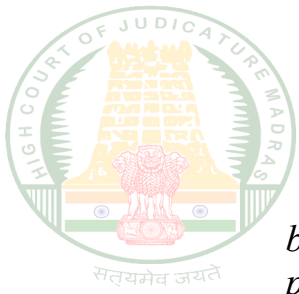
WEB COPY

unless a non-traceable certificate is issued by the police department along with an advertisement published in the local newspaper, giving notice of the loss of the previous original deed.

14. In short, Rule 55A provides that unless documents are produced to prove that the executant has a right in respect of the property subject matter of the instrument, the registration of the same shall be refused. Thus, if a sale deed is presented for registration, documents must be produced to demonstrate that the executant has acquired ownership of the property. In a sense, power has been conferred on the registering officer to verify the title of the executant. Unless documents are produced evidencing title as required by Rule 55A(i), registration of the sale deed shall be refused.

15. The registering officer is not concerned with the title held by the executant. He has no adjudicatory power to decide whether the executant has any title. Even if an executant executes a sale deed or a lease in respect of a land in respect of which he has no title, the registering officer cannot refuse to register the document if all the procedural compliances are made and the necessary stamp duty as well as registration charges/fee are paid. We may note here that under the scheme of the 1908 Act, it is not the function of the Sub-Registrar or Registering Authority to ascertain whether the vendor has title to the property which he is seeking to transfer. Once the registering authority is satisfied that the parties to the document are present before him and the parties admit execution thereof before him, subject to making procedural compliances as narrated above, the document must be registered. The execution and registration of a document have the effect of transferring only those rights, if any, that the executant possesses. If the executant has no right, title, or interest in the property, the registered document cannot effect any transfer.

16. Therefore, assuming that there is a power under Section 69 of the 1908 Act to frame the Rules, Rule 55A(i) is inconsistent with the provisions of the 1908 Act. Due to the inconsistency, Rule 55A(i) will have to be declared ultra vires the 1908 Act. The rule-making power under Section 69 cannot



WEB COPY

be exercised to make a Rule that is inconsistent with the provisions of the 1908 Act. Rule 55A(i) is accordingly declared as ultra vires the 1908 Act.

17. As the writ petition filed by the appellant was dismissed by the High Court, relying on Rule 55A(i), and since Rule 55A(i) is held to be invalid, the impugned judgments must be quashed and set aside. Ordered accordingly.”

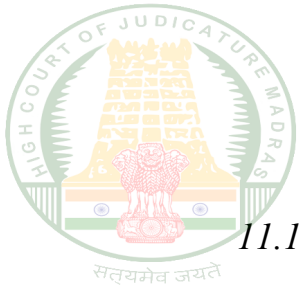
2.3. It is further submitted by the learned counsel for the petitioner that in view of the above order of the Apex Court a Circular in Lr.No.44420/C1/2024 dated 28.04.2025 was also came to be issued, wherein instructions have been issued that the registering officer shall not insist on production of original previous documents or non traceable certificate from the police department. The relevant portion of the Circular is extracted hereunder:

*“Circular
Lr.No.44420/C1/2024. DT. 28.04.2025*

.....

(4) In other words the Registering Officer shall not insist production of Original Previous documents or Non-Traceable Certificate from the Police Department or Encumbrance Certificate and other Revenue details from the Registrants.”

3. When this was pointed out, the learned Government Advocate appearing for respondents would submit that they would reconsider the petitioner's request of registering the sale deed dated



W.P.No.2438 of 2025

11.11.2024, in the light of judgment of the Supreme Court in the case of K. Gopi v. Sub-Registrar (supra) and the consequential Circular in Lr.No.44420/C1/2024 dated 28.04.2025.

4. In view thereof, the writ petition stands disposed of. It is open to the petitioner to re-present the Sale Deed and if any such sale deed is re-presented the 2nd respondent is directed to proceed with registration of the Sale Deed keeping in view the law laid down by the Supreme Court in the case of K. Gopi v. Sub-Registrar (supra) and the instructions laid down in Circular Lr.No.44420/C1/2024 dated 28.04.2025 and would proceed to register if it is otherwise in order. If for any reason, the registering authority refuses to register the Sale Deed, the same would be done by issuing a refusal slip assigning reasons. No costs.

3. In view of the above decision, the Writ Petition stands disposed of. It is open to the petitioner to re-present the sale deed and if any such sale deed is re-presented, the respondent shall proceed with registration of the sale deed, if it is otherwise in order, keeping in view of the above decision made by this Court in W.P.No.39677 of 2024, dated 13.06.2025. If for any reason, the registering authority refuses to register the sale deed, the same would be done by issuing a refusal slip/order assigning reasons. No costs.



W.P.No.2438 of 2025

15.07.2025

WEB COPY

raja

Index : yes/no

Internet : yes/no

Speaking Order / Non-Speaking Order

To

The Joint Sub-Registrar No-1,
Dharmapuri District.



WEB COPY



W.P.No.2438 of 2025



WEB COPY



W.P.No.2438 of 2025

MOHAMMED SHAFFIQ, J.

raja

W.P.No.2438 of 2025

15.07.2025