



W.P.No.18583 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.18583 of 2025

M.Karishma

... Petitioner

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Mandavelipakkam,
Raja Annamalaipuram,
Chennai - 600 028.

2.The District Registrar,
Thirupathur District,
Thirupathur - 635 602.

3.The Sub Registrar,
Ambur Sub Register Office,
11, Railway Station Road,
Ambur - 635 802.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent and quash the 3rd Respondents Impugned Refusal Slip dated 07.01.2025 vide Refusal No.RFL/Ambur/5/2025 with regard to petitioners Settlement Deed dated 07.01.2025 as the same is perverse, arbitrary, biased, illegal, untenable, unwarranted, smacks of



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malafide and colourable exercise of power and consequently directing the 3rd respondent to Register the Petitioners settlement deed dated 07.01.2025 vide No.TP/206441658/2025 without insisting NON TRACEABLE CERTIFICATE in view of the Judgement passed in W.A. No.1160/ 2024 dated 27.09.2024 by this Hon'ble Court in respect of the petitioners property measuring an extent of 1500 sq.ft. (139.36 sq.mtr) bearing plot Nos.171 and 172 in the layout known as Basha Nagar comprised in Punja Survey no.631/3 and 632/4, presently in Town Survey No.3/1, 3/1A, Ward B, Block -19 of Ambur Town, Ambur Taluk, Tirupathur District, situated within the Registration District of Tirupathur and Sub Registration District of Ambur and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner(s) : Mr.L.K.Manjunath
for M/s.Sri Manjunatha Law Associates

For Respondent(s) : Mr.V.Baranidharan for R1 to R3
Special Government Pleader

ORDER

By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

2.The present writ petition is filed refusing to register the Settlement Deed dated 07.01.2025 on the premise that non-traceable



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certificate has not been furnished of the Sale Deed dated 11.03.2019.

WEB COPY 3.It is submitted by the learned counsel for the petitioner that mere inability of the petitioner to produce the non-traceable certificate of the Sale Deed dated 11.03.2019 cannot be a reason for the 3rd respondent to refuse registration the Settlement Deed dated 07.01.2025.

4.Reliance was placed on the judgment of the Hon'ble Supreme Court in ***K.Gopi vs. The Sub Registrar & Ors. (Civil Appeal No.3954 of 2025)*** reported in ***2025 SCC OnLine SC 740*** 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 unless a non-



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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



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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 be exercised to make a Rule that is inconsistent with



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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."

5.Pursuant thereof, a Circular Lr.No.44420/C1/2024, dated 28.04.2025 also came to be issued and it was clarified as under:

"(4) In other words the Registering Officers 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."

6.On this being pointed out, the learned Special Government Pleader would submit that the petitioner may be directed to represent the Settlement Deed and the same would be registered if it is otherwise in order, in accordance with the decision of the Hon'ble Supreme Court in K.Gopi's case referred supra and Circular dated 28.04.2025.



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7.In view thereof, the Writ Petition stands disposed of with a direction to the 3rd respondent to register the Settlement Deed dated 07.01.2025 if it is otherwise in order. It is made clear that this Court has not expressed any views with regard to the merits of the case and it is open to the concerned respondent to consider the matter on its own merits and in accordance with law. No costs.

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Index : Yes/ No
Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
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To

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MOHAMMED SHAFFIQ, J.

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