



W.P. No.19256 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 11.06.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.19256 of 2025

Jaya

... Petitioner

Vs.

1. The Sub Registrar,
Palacode Sub Registrar Office,
Main Road, Palacode,
Dharmapuri District.

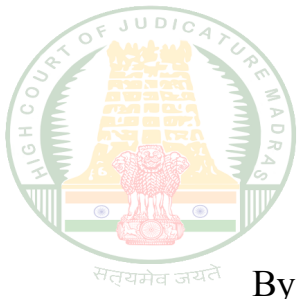
2. Gowri

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, directing the respondent to call for the records in RFL/Palacode/26/2025 dated 25.03.2025 on the file of the respondent and quash the same and further direct the respondent to register the settlement deed presented in TP/214582658/2025.

For Petitioner(s) : Mr.K.S.Gowtham
for Mr.S.C.Vishwanth

For R1 : Mr.Abishek Murthy
Government Advocate



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ORDER

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

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2. The learned counsel for the petitioner submitted that the petitioner is not claiming any relief against the 2nd respondent and the same may be deleted. He has made an endorsement to that effect.

3. The present writ petition is filed praying for a writ of certiorarified mandamus challenging the order of refusal dated 25.03.2025 in RFL/Palacode/26/2025 to register the Settlement Deed on the premise that the original title deeds have not been produced and that there is an agreement for sale alreentered into in respect of the subject property.

4. It is submitted by the learned counsel for the petitioner that the petitioner purchased the land comprised in Survey No.769/1A3A to an extent of 0.17 ¼ Cent, Erranahalli Village vide Sale DeedNo.1113/2015 and Patta No.3025. It is further submitted that the petitioner is in absolute possession and enjoyment of the above said land.

4.1.It is submitted by the learned counsel for the petitioner that the



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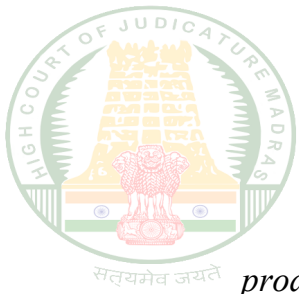
petitioner had availed loan from the 2nd respondent vide Deed No.2002/2015.

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Meanwhile, the petitioner decided to settle the said property in favour of her son, Ranjith Kumar. The petitioner submitted Document No.TP/214582658/2025 before the respondent and registration was fixed on 25.03.2025. After completing the registration process, the respondent instead of registering the Settlement Deed, rejected the registration vide Refusal Number RFL/Palacode/26/2025 dated 25.03.2025 stating that the original title deeds have not been produced and that there is an agreement for sale already entered into in respect of the subject property.

4.2. 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 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.



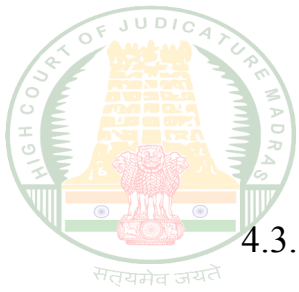
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14. In short, Rule 55A provides that unless documents are produced to prove that the executant has a right in respect of the property subject matter of the instrument, the registration of the same shall be refused. Thus, if a sale deed is presented 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 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.”



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4.3. It is further submitted by the learned counsel for the petitioner that pursuant to the above order of the Apex Court a Circular in Lr.No.44420/C1/2024, dated 28.04.2025 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.”

4.4. Insofar as the objection viz., that there is an agreement for sale already entered in respect of the subject property, reliance was placed on the judgment of the Division Bench of this Court in the case of N. Ramayee v. Sub-Registrar, reported in 2020 SCC OnLine Mad 5231, to submit that the same may not be a bar for registration, the relevant portion of which reads as under:

“46. Accordingly, we answer the reference as follows:

If an agreement for sale is registered in respect of immovable property, the same will not be a bar for the owner of the property to effect subsequent transfers in respect of the same property. The Registrar has no right to refuse to register the document, except the documents relating to immovable properties mentioned in Section 22-A of the Tamil Nadu Act and as contemplated under Rule 162 of the Registration Rules.



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49. As already indicated, the purpose of registration is only to give a public notice. It is for the buyer or subsequent transferee to make reasonable enquiry. Doctrine of caveat emptor will also apply to every transfer. It is for them to verify the title of the property by making reasonable enquiry. At any event, subsequent transfer will always be subject to the rights already created. Therefore, it cannot be said that merely because agreement for sale is registered without obtaining decree of declaration that such agreement is void, subsequent transfer is prohibited and cannot be registered. We hold that as discussed in our judgment, Registrar has no right to refuse to register the subsequent document on the basis that agreement of sale was already registered in respect of same property.”

6. In view thereof, the impugned order dated 25.03.2025 is set aside. It is open to the petitioner to re-present the Settlement Deed. If any such Settlement Deed is re-presented the 1st respondent shall register the Settlement Deed if it otherwise in order. If for any reason, the 1st respondent refuses to register the Settlement Deed, the same would be done by issuing a refusal slip assigning reason.

7. Accordingly, the writ petition stands disposed of. No costs.

11.06.2025

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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MOHAMMED SHAFFIQ, J.

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To:

The Sub Registrar,
Palacode Sub Registrar Office,
Main Road, Palacode,
Dharmapuri District.

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