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W.P.No.16608 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.16608 of 2025

D.Dhanalakshmi

... Petitioner(s)

Vs.

1.The District Registrar (Administration),
Chennai Central,
Chennai.

2.The Sub-Registrar,
Anna Nagar,
Chennai.

... Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents herein to admit and register three deeds of Special Power of Attorney to be executed by the Petitioner appointing her younger daughter - S.V.Rajalakshmi, wife of A.P.S.Velu to present the Settlement Deeds executed by the Petitioner herein in favour of her son and daughters with respect to separate parts of lands comprised in S.F.No.150 measuring an extent of 14.20 Acres situated at Velampalayam Village, Palladam Taluk, Tiruppur District without insisting for production of original of Sale



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Deed dated 11.02.1981 registered on 12.02.1981 as Doc.No.446/1981 in Book No.1, Volume - 1030, Pages - 415 to 417, in the office Joint Sub Registrar II, Tiruppur and return such registered Settlement Deeds to the Petitioner's Special Power of attorney - S.V. Rajalakshmi, wife of A.P.S.Velu.

For Petitioner(s) : Mr.V.P.Sengottuvel, Senior Advocate
for Mr.S.Satchithanantham

For Respondent(s) : Mr.U.Baranidharan for R1 & R2
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 to register the Special Power of Attorney executed by the petitioner which was refused on the premise that original Sale Deed dated 11.02.1981 has not been furnished.

3.It is submitted by the learned counsel for the petitioner that there is no refusal slip as such it appears that the present writ petition is filed on the oral refusal to register the Special Power of Attorney on the basis that the original documents are not available.



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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-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



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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



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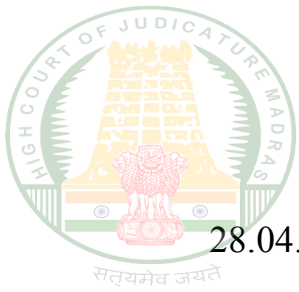
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registering authority is satisfied that the parties to the document are present before him and the parties admit execution thereof before him, subject to making procedural compliances as narrated above, the document must be registered. The execution 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."

5.Pursuant thereof, a Circular Lr.No.44420/C1/2024, dated



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28.04.2025 also came to be issued and it was clarified as under:

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"(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 re-present the Special Power of Attorney 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.

7.In view thereof, the Writ Petition stands disposed of with a direction to the 2nd respondent to register the Special Power of Attorney 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



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Neutral Citation: Yes/No
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To

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Chennai.
- 2.The Sub-Registrar,
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MOHAMMED SHAFFIQ, J.

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