



W.P.No.17975 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.17975 of 2025

K.Kutty

... Petitioner(s)

Vs.

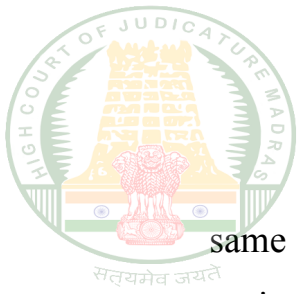
1.The Inspector General of Registration,
Office of Inspector General of Registration,
No.100, Santhome Highway,
Pattinapakkam,
Chennai - 28.

2.The District Registrar,
The District Registrar's Office,
Gandhi Nagar,
Dharmapuri – 636 701.

3.The Sub Registrar,
The Office of Sub-Registrar,
Dharmapuri West,
Nesavalur Colony,
Dharmapuri District – 636 809.

... Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for records of the 3rd respondent vide Refusal check slip No. RFL/Dharmapuri west /41/2025 dated 17.04.2025 (impugned Refusal Slip) and quash the



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same as illegal and arbitrary and further direct the 3rd respondent to register the sale Deed Document dated 17.04.2025 produced by the petitioner pertaining to the property measuring to an extent of 0.09 cents bearing Survey No.142/5B situated at Onnappagoundanahalli Village, Pennagaram Taluk Dharmapuri District - 636 809.

For Petitioner(s) : Mr.G.Mohammed Aseef
For Respondent(s) : Mr.U.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 challenging the refusal slip whereby the 3rd respondent refused to register the Sale Deed dated 17.04.2025 on the premise that the original title deeds were not furnished.

3.It is submitted by the learned counsel for the petitioner that mere inability of the petitioner to produce the original title deeds cannot be a reason for the 3rd respondent to refuse registration the Sale Deed dated 17.04.2025. In this regard, reliance was placed on the Division Bench judgment of this Court in W.A.(MD).No.856 of 2023 dated 27.06.2023,



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wherein Division Bench has held as follows:

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“14. In the light of the above, we do not think that insistence on production of original document, in all cases across the Board, could be sustained. Wherever the vendor is a co-owner and it is claimed that the original document is in the hands of the other co-owners, who are reluctant to part with it, the Registrar can always take a declaration in the form of a sworn affidavit from the co-owner, who is the executant and register the document. If the other siblings dispute the rights of the executant, they can also do so before the Civil Court and there is no law that authorizes the Registrar to conduct a trial to decide title to the property in question. What is sought to be done in the garb of an enquiry is exactly that. We are, therefore, convinced that the order of the Writ Court as well as the check slip issued by the Sub Registrar cannot be sustained.”

4. Reliance was also 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



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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 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



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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.

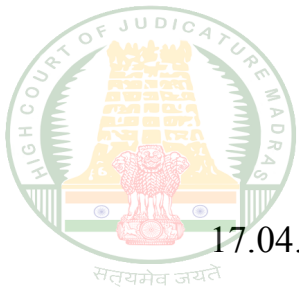
17. As the writ petition filed by the appellant was dismissed by the High Court, relying on Rule 55A(i), and since Rule 55A(i) is held to be invalid, the impugned judgments must be quashed and set aside. Ordered accordingly."

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

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, learned Special Government Pleader would submit that the petitioner may re-present the Sale Deed dated



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17.04.2025 and the same would be registered if it is otherwise in order,

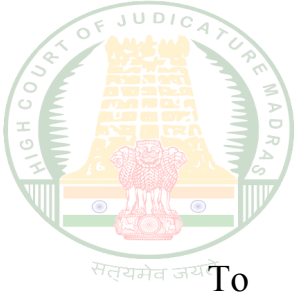
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in accordance with the decision of the Hon'ble Supreme Court in K.Gopi's case referred supra and Circular dated 28.04.2025.

7.In view thereof, impugned check slip dated 17.04.2025 passed by the 3rd respondent is set aside and the Writ Petition stands disposed of with a direction to the 3rd respondent to register the Sale Deed dated 17.04.2025 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.

05.06.2025

Index : Yes/ No
Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

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