



W.P.No.16638 of 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.16638 of 2025

D.Ashok Kumar

... Petitioner(s)

Vs.

1.The Inspector General of Registration,
O/o.The Inspector General of Registration,
Santhome High Road,
Chennai.

2.The District Registrar,
O/o.District Registrar Office,
Erode District,
Erode.

3.The Sub Registrar,
Sub Register Office,
Thingalur,
Erode District.

... Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to register the petitioner partition deed dated 11.04.2025 based on the online Token Temporally No.TP/216345102/2025 and Reservation Serial No.5 (D-205) dated 11.04.2025 on the file of the 3rd respondent in accordance with law.



WEB COPY



W.P.No.16638 of 2025

For Petitioner(s) : Ms.S.Sengkodi

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 refusing to register the Partition Deed dated 11.04.2025 on the premise that the original parent document has not been furnished.

3.It is submitted by the learned counsel for the petitioner that the petitioner's grandfather Chinnappa Gounder purchased the property by way of a Sale Deed and the same was registered as Document No.1420/1976 before the Registrar Office, Gopichetipalayam in S.No.607/2A Punjai acres 1.77-3/4 and S.Nos.522/4 7, 8, 9A, 9C, 10, 12, and 523/13, 14, 15A, 15b, 15D, 16, 17, 18 situated at Srivallur Village, Gopichetipalayam, Erode District. Thereafter, the petitioner's grandfather decided to execute will in favour of petitioner and his brother. The said grandfather died on 21.01.2006. The above said Will come into force from the date of death and ever since then they have been in peaceful and



W.P.No.16638 of 2025

enjoyment of the subject property.

WEB COPY

4.It is further submitted by the learned counsel for the petitioner that the petitioner and his brother decided to partition the subject property and accordingly, they executed a Partition Deed on 11.04.2025. It is further submitted that the petitioner had applied online on the same day, i.e., on 11.04.2025 and the same is pending before the 3rd respondent.

5.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



WEB COPY



W.P.No.16638 of 2025

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



WEB COPY



W.P.No.16638 of 2025

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



WEB COPY



W.P.No.16638 of 2025

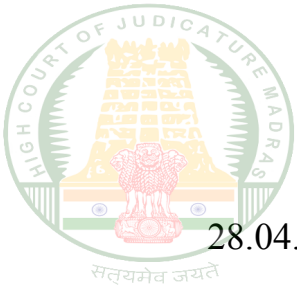
under Section 69 cannot be exercised to make a Rule that is inconsistent with the provisions of the 1908 Act. Rule 55A(i) is accordingly declared as ultra vires the 1908 Act.

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 for the respondents would submit that the petitioner may be directed to represent the Partition 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



W.P.No.16638 of 2025

28.04.2025.

WEB COPY

7.In view thereof, the Writ Petition stands disposed of with a direction to the 3rd respondent to register the Partition Deed dated 11.04.2025 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.

04.06.2025

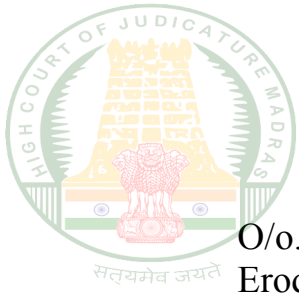
Index : Yes/ No
Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
pam

To

1.The Inspector General of Registration,
O/o.The Inspector General of Registration,
Santhome High Road,
Chennai.

2.The District Registrar,

7/9



W.P.No.16638 of 2025

O/o.District Registrar Office,
Erode District,
Erode.

WEB COPY

3.The Sub Registrar,
Sub Register Office,
Thingalur,
Erode District.



WEB COPY



W.P.No.16638 of 2025

MOHAMMED SHAFFIQ, J.

pam

W.P.No.16638 of 2025

04.06.2025