



W.P. No.16871 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 03.06.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.16871 of 2025

A.Nalini

... Petitioner

Vs.

Sub-Registrar,
Office of the Sub-Registrar,
Joint-1, Saidapet, South Chennai,
537, Fanepet, Nandanam,
Chennai 600 035.

... Respondent

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 respondent and quash the Impugned refusal order dated 25.04.2025 bearing refusal number: RFL/Chennai South Joint- I/16/2025 and direct the respondent to register petitioner's Settlement Deed dated 18.03.2025.

For Petitioner(s)

: Mr.Shriram
for Mr.S.Manikandan

For Respondent(s)

: Mr.Abishek Moorthy
Government Advocate



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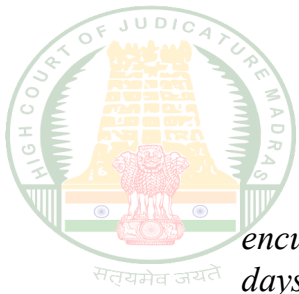
ORDER

WEB COPY 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 impugned order dated 25.04.2025 refusing to register the settlement deed dated 18.03.2025, only on the premise that the original title deeds have not been presented along with settlement deed.

3. It is submitted by the learned counsel for the petitioner that there is a Division Bench order of this Court in W.A.No.1160 of 2024 dated 27.09.2024, wherein it was found that non-submission/production of original title deed cannot be a reason for refusing to register the settlement deed. It is further submitted by the learned counsel for the petitioner that subsequently there is a 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. The relevant portion of the judgment is extracted hereunder:

“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



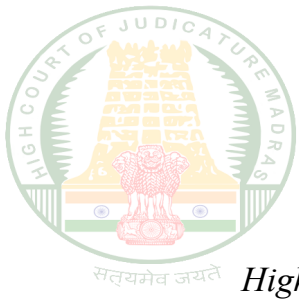
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encumbrance certificate pertaining to the property, obtained within ten days from the date of presentation. If the original deed is not available due to its antiquity, the registration of the presented document will be refused unless the presenter 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 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.



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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.”

3.1. It is further submitted by the learned counsel for the petitioner that in view of the above order of the Apex Court a Circular in Lr.No.44420/C1/2024 dated 28.04.2025 was 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. In view thereof, the impugned order is set aside, the respondents shall reconsider the petitioner's request in the light of the Circular dated 28.04.2025 to register the settlement deed and the same shall be registered if it is otherwise in accordance with law. If for any reason, the registering authority refuses to register the Settlement Deed, the same would be done by issuing a refusal slip



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assigning reason.

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

03.06.2025

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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MOHAMMED SHAFFIQ, J.

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To:

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537, Fanepet, Nandanam,
Chennai 600 035.

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