



W.P.No.19379 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.19379 of 2025

K.Karthick

: Petitioner

Vs.

The Sub Registrar,
Dhadhagapatti,
Salem District

: Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus to call for the records relating to the impugned Refusal Check Slip in No.RFL/Dhadhagapatti/61/2025 dated 16/05/2025 issued by the respondent and quash the same and consequently direct the respondent to register the Sale deed dated 16/05/2025 presented by the petitioner.

For Petitioner : Mr.L.Ramanathan

For Respondent : Mr.U.Baranidharan
Special Government Pleader



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ORDER

The present writ petition is filed challenging the impugned refusal check slip dated 16.05.2025 issued by respondent, whereby the sale deed dated 16.05.2025 was refused to be registered, on the premise that the petitioner had failed to produce the original parent document No.6742 of 2007, dated 22.11.2007, and secondly, there was an agreement of sale dated 22.11.2024, which was already registered in Doc No.7202 of 2024 in respect of the same property.

2. It is submitted by the learned counsel for the petitioner that both the above reasons do not justify refusal to register the sale deed and it is contrary to the decision of the Hon'ble 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, and the decision of the Division Bench of this Court in the case of *N.Ramayee Vs. The Sub Registrar, Registration Department, Valapady - 636 115, Salem District and another* reported in *(2020 (6) CTC 697)*, wherein it was held that 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.



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2.1. The Hon'ble Supreme Court in the case of *K. Gopi v. Sub-Registrar*, reported in 2025 SCC OnLine SC 740, 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 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.”

2.2. A Division Bench of this Court in the case of *N.Ramayee Vs. The Sub Registrar, Registration Department, Valapady - 636 115, Salem District and another* reported in (2020 (6) CTC 697), held 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



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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 judgement, 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."

3. It is further submitted by the learned counsel for the petitioner that in view of the above order of the Apex Court in *K. Gopi cited supra*, 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 refuse to register only on the ground of non-furnishing of the original documents. The relevant portion of the Circular is extracted hereunder:

*"Circular
Lr.No.44420/C1/2024. DT. 28.04.2025*

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(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. When this was pointed out, learned Special Government Pleader for the respondent would submit that if the sale deed dated 16.05.2025 is re-presented by the petitioner, the same would be registered, if it is otherwise in order, in the light of judgment of the Supreme Court in the case of *K. Gopi v. Sub-Registrar* (supra) and judgment of a Division Bench of this Court in the case of *N.Ramayee Vs. The Sub Registrar, Registration Department, Valapady* (supra) and the instructions laid down in Circular Lr.No.44420/C1/2024 dated 28.04.2025. If, for any reason, the Sub Registrar is of the view that the registration ought to be refused, he would do so after assigning reasons, which was agreed to by the learned counsel for the petitioner.

5. In the light of the above discussion, the impugned refusal check slip issued by the respondent dated 16.05.2025 is hereby set aside. It is open to the petitioner to re-present the sale deed dated 16.05.2025 and if any such sale deed is re-presented, respondent shall register the sale deed, if it is otherwise in order, keeping in view the law laid down by the Hon'ble Surpeme court in the case of *K.*



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Gopi cited supra and the Division Bench of this Court in the case of *N.Ramayee* cited supra and the instructions laid down in Circular Lr.No.44420/C1/2024 dated 28.04.2025. If for any reason, the respondent refuses to register the sale deed, he shall assign reasons in the refusal slip, which was agreed to by both counsel for petitioner as well as respondents.

6. In the result, this Writ Petition stands disposed of. There will be no order as to costs.

01.07.2025

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

To
The Sub Registrar,
Dhadhagapatti,
Salem District



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MOHAMMED SHAFFIQ, J.

(mrn)

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