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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WP NO. 20339 of 2025

G. Mohankumar

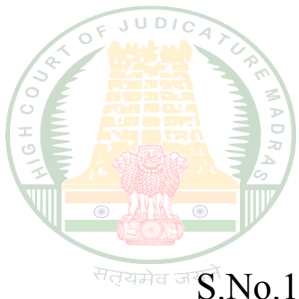
Petitioner

Vs

1. The Inspector General of Registration,
O/o. The Inspector General of Registration,
Santhome High road, chennai 600 028.
2. The District Registrar (Administration)
O/o. The District Registrar,
Villupuram, Villupuram District.
3. The Sub Registrar,
Office of the Sub Registrar,
Avarapakkam, Tindivanam Taluk,
Villupuram District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records from the 3rd respondent pertaining to the order of Refusal Check slip No.RFL/Avarapakkam/77/25, dated 14.05.2025 of the 3rd respondent and to quash the same and directing the 3rd respondent herein to register the Settlement Deed dated 14.05.2025 executed by the petitioner's father settling the 1) lands measuring 1.04.56 Hectares out of 1.17.0, comprised in Old.Survey No.111/1, New Survey No.93/4A and sub divided Survey No.93/4A1A1 and 2) lands measuring 0.08.0 Hectares, comprised in Old



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S.No.111/2, New Survey No.93/6, totalling 1.12.56 Hectares in favour of the petitioner situated in Eapakkam Village, Tindivanam Taluk, Villupura District in favour of his own son G.Mohankumar, the petitioner herein.

For Petitioner(s) : Mr. R. Agilesh

For Respondent(s) : Mr. Abishek Moorthy, GA

ORDER

By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records from the 3rd respondent pertaining to the Refusal Check slip No.RFL/Avarapakkam/77/25, dated 14.05.2025 of the 3rd respondent and to quash the same and to direct the 3rd respondent herein to register the Settlement Deed dated 14.05.2025 executed by the petitioner's father settling 1) lands measuring 1.04.56 Hectares out of 1.17.0, comprised in Old.Survey No.111/1, New Survey No.93/4A and sub divided Survey No.93/4A1A1 and 2) lands measuring 0.08.0 Hectares, comprised in Old S.No.111/2, New Survey No.93/6, totalling 1.12.56 Hectares in favour of the petitioner situated in Eapakkam Village,



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Tindivanam Taluk, Villupuram District in favour of his own son
G.Mohankumar, the petitioner herein.

3. It is the case of the petitioner that his father viz., Gopal @ Gopal Pillai settled the lands measuring 1.04.56 hectares out of 1.17.0 , comprised in Old S.No.111/1, New S.No.93/4A and sub-divided S.No.93/4A1A1 and 2) lands measuring 0.08.0 hectares comprised in Old S.No.111/2, New S.No.93/6, totalling 1.12.56 hectares in favour of petitioner vide a Gift Settlement Deed dated 14.05.2025 and presented the Settlement Deed for registration in the office of the 3rd respondent along with unregistered copy of the partition Koorchit dated 27.07.1996 entered between petitioner's father and his brothers. However, the 3rd respondent refused to register the Settlement Deed dated 14.05.2025 and issued Refusal Check Slip dated 14.05.2025, on the ground that the Settlement Deed is based on the antecedent document viz., partition Koorchit which is an unregistered one and thereby, returned the settlement deed. Though original of the partition koorchit was filed along with the settlement deed, the same has not been considered by the 3rd respondent. Aggrieved over the issuance of Refusal Check Slip, the petitioner has filed the present Writ Petition.



WEB COPY 4. Learned counsel for the petitioner would submit that the above reason may not be valid in as much as the Registering Authority is only empowered to register the document and not empowered to enquire in to the question of title of the person executing the document over the property sought to be settled. In this regard, the learned counsel for the petitioner would place reliance upon the 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 encumbrance certificate pertaining to the property, obtained within ten days from the date of presentation,. If



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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 exercise to make a Rul 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. Learned Govt. Advocate appearing for the respondent, on this being pointed out, would submit that the petitioner may represent the settlement deed and the same would be registered if it is otherwise in order , which was agreed to by the learned counsel for the petitioner.

6. In view of the above, the impugned Refusal Check Slip is set aside. The petitioner is directed to represent the Settlement Deed for registration and on such representation, the respondents shall register the same if it is, otherwise in order. If for any reason, the respondents is of the view that



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registration of the sale deed ought to be refused, the refusal slip would be issued after assigning reasons on merits. 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.

7. With the above direction, this writ petition is disposed of. No costs.

10.07.2025

Index:yes/no
Internet:yes/no
msr

To

1. The Inspector General of Registration,
O/o. The Inspector General of Registration,
Santhome High Road, Chennai 600 028.
2. The District Registrar (Administration)
O/o. The District Registrar,
Villupuram, Villupuram District.
3. The Sub Registrar,
Office of the Sub Registrar,
Avarapakkam, Tindivanam Taluk,
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MOHAMMED SHAFFIQ, J.

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