



W.P.No.20480 of 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.20480 of 2025

Senthamarai

...Petitioner

Vs.

1.The District Registrar,
District Registrar Office,
Ariyalur District.

2.The Sub Registrar,
Senthurai Sub-Registrar Office,
Ariyalur District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified mandamus, calling for the records of the impugned order passed by the second respondent in refusal check slip in refusal number:RFL/Senthurai-Ariyalur/14/2025 dated 31.01.2025 and quash the same and further direction to direct the second respondent to register the settlement deed executed by the petitioner and consequently to pass such further order.

For Petitioner : Mr.T.Balachandran

For Respondents : Mr.Abishek Murthy
Government Advocate



W.P.No.20480 of 2025

WEB COPY

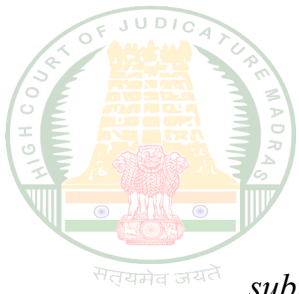
ORDER

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 impugned refusal check slip dated 31.01.2025 issued by second respondent, whereby the settlement deed dated 31.01.2025 was refused to be registered, on the premise that the petitioner had failed to produce the original sale deed document No.787/2003, on the basis of which the title to the said property is traced/denied.

3. It is submitted by the learned counsel for the petitioner that the above reason for refusal is ill-founded and 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, 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



W.P.No.20480 of 2025

WEB COPY

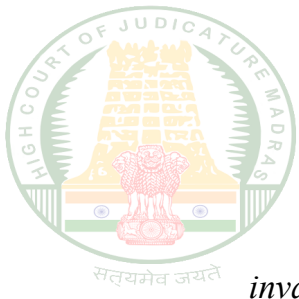
subject property. If the original deed is lost, the document cannot be registered unless a non-traceable certificate is issued by the police department along with an advertisement published in the local newspaper, giving notice of the loss of the previous original deed.

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



W.P.No.20480 of 2025

invalid, the impugned judgments must be quashed and set aside. Ordered accordingly.”

4. 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 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*

.....

(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.”

5. In the light of the above discussion, the impugned refusal check slip issued by the second respondent dated 31.01.2025 is hereby quashed. It is open to the petitioner to re-present the Settlement Deed before the second respondent and if any such settlement deed is re-presented, the second respondent is directed to



W.P.No.20480 of 2025

WEB COPY

proceed with registration of the Settlement Deed keeping in view the law laid down by the Supreme Court in the case of *K. Gopi v. Sub-Registrar* (supra) and the instructions laid down in Circular Lr.No.44420/C1/2024 dated 28.04.2025, if it is otherwise in order. If for any reason, the registering authority refuses to register the Settlement Deed, the same would be done by issuing a refusal slip assigning reasons. The above position is not controverted by the learned Government Advocate for the respondents.

6. In the result, this Writ Petition stands disposed of on the above terms. However, there will be no orders to costs.

13.06.2025

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



W.P.No.20480 of 2025

To

WEB COPY

1. The District Registrar,
District Registrar Office,
Ariyalur District.
2. The Sub Registrar,
Senthurai Sub-Registrar Office,
Ariyalur District.



WEB COPY



W.P.No.20480 of 2025

MOHAMMED SHAFFIQ, J.

mrn

W.P.No.20480 of 2025

13.06.2025