



W.P.No.21732 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.21732 of 2025

Ramasamy

...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 Joint Sub Registrar,
Sub Registrar Office,
Kunnathur, Erode District.

...Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip Number:RFL/Kunnathur/4/2025 dated - 14.03.2025 issued by the 3rd respondent and quash the same as illegal and consequently directing the 3rd respondent to accept and register the Partition Deed dated 26.02.2025 presented by the petitioner.



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For Petitioner(s) : Mr.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 praying for a writ of certiorarified mandamus challenging the impugned refusal check slip issued by the 3rd respondent dated 14.03.2025 in RFL/Kunnathur/4/2025 and to quash the same as illegal and consequently direct the 3rd respondent to accept and register the Partition Deed presented by the petitioner.

3.It is submitted by the learned counsel for the petitioner that Partition Deed executed by petitioner and his brother sought to be registered was rejected on the premise that Will through which the property devolved on the petitioner was unregistered and encumbrance certificate has not been furnished. It is further submitted that the above reasons may not be valid.



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4. Reliance was placed on the judgment of the Hon'ble Supreme

WEB 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 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



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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,



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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."

5.Pursuant therefor, a Circular Lr.No.44420/C1/2024, dated 28.04.2025 also came to be issued and it was clarified as under:



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"(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, the learned Special Government Pleader would submit that the petitioner may re-present 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 28.04.2025.

7.In view thereof, the Writ Petition stands disposed of with a direction to the 3rd respondent to register the Partition Deed if it is otherwise in order. If for any reason, there is a need for refusal of registration of Partition Deed, they would do so after assigning reason.

No costs.

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Index : Yes/ No

Speaking (or) Non Speaking Order

Neutral Citation: Yes/No

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MOHAMMED SHAFFIQ, J.

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