

W.P. No.21990 of 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.21990 of 2025

Saminathan

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.

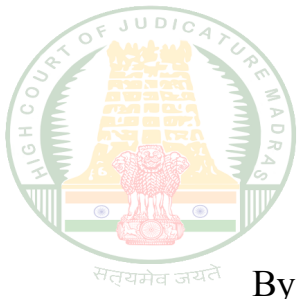
3.The Sub Registrar,
Sub Registrar Office, Nambiyur,
Erode District.

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 he impugned refusal check slip in RFL / Nambiyur / 19/2025 dated 27/05/2025 issued by the 3rd respondent and quash the same as illegal and consequently directing the 3rd respondent to accept and register the settlement deed document dated 27.05.2025 presented by the petitioner.

For Petitioner(s) : Ms.S.Sengodi

For Respondent(s) : Ms.Bakkiyalakshmi
Government Advocate



W.P. No.21990 of 2025

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 refusal slip date 27.05.2025.

3. It is submitted by the learned counsel for petitioner that the petitioner's mother was in absolute possession of the property comprised in Survey Nos.163/4A and 163/2A1. Petitioner's mother executed a will dated 05.10.2024 in favour of the petitioner. Petitioner's mother passed away on 06.12.2024. Petitioner executed a settlement deed in favour of his wife Thangamani on 27.05.2025 and submitted an online registration in the 3rd respondent portal. It is stated that the settlement deed was rejected by invoking Rule 55A of the Registration Act, 1908 and stating that the will has not been registered.

3.1. It is further submitted by the learned counsel for the petitioner that subsequently there is a judgment 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. The relevant portion of the judgment is extracted hereunder:



WEB COPY

“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



WEB COPY

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."

3.2. Insofar as unregistered will is concerned, the learned counsel for petitioner would place reliance on the judgment of the Hon'ble Supreme Court in the case of ***Leela and others vs. Muruganantham and others*** reported in (2025) 4 SCC 289. This Court on more than one occasion found that mere non-registration of will cannot be a reason for refusing registration. One such order being writ petition in W.P.No.16999 of 2020 dated 03.12.2020, wherein it was held as under:

"5. In the considered view of this Court, a Will does not get a special status by registering the same. Admittedly, it is a document which need not be registered and no law mandates such registration. The law on this issue is well settled and it has been held that just because the Will is registered, reliance cannot be placed on the same, unless it is proved in the manner indicated under the Evidence Act.

6. In the present case, the respondent has insisted for getting a probate with regard to the Will executed in favour of the petitioner. Insofar as probate is concerned, the same becomes mandatory only when it attracts the provisions of Section 213 of the Indian Succession Act. The property in question is situated at Kancheepuram District and the Will has also been executed at Kancheepuram District and therefore, the Will in question does not fall under the requirements of Section 213 of the Indian Succession



W.P. No.21990 of 2025

Act and it does not require a probate for the purpose of acting upon this Will.

WEB COPY

7. The petitioner is claiming the right over the subject property by virtue of the Will executed by her husband. She wants to settle the property in favour of one of her sons. Therefore, the respondent can always act upon the Will and should have taken into consideration the fact that the mother is settling the property in favour of one of her sons and there is no third party, who is getting into the transaction. If ultimately the other children of the petitioner are disputing the validity of the Will, they can always approach the competent Civil Court and put the Will to test. Till that happens, the Will is a valid document for all purposes and it can be acted upon."

4. At this juncture, Ms.Bakkiyalakshmi, learned Government Advocate appearing for the respondents submitted that the petitioner may re-present the document for registration, and same would be registered by the concerned respondent, if it is otherwise in order. Agreed to by the learned counsel for petitioner.

5. In view thereof, the impugned order is set-aside, the petitioner may re-present the settlement deed for registration, the concerned respondent shall consider and register the document if it is otherwise in order, if for any reason the registering authority finds that the registration ought to be refused, the same shall be done after assigning reasons and after putting the petitioner, and other interested parties on notice. It is made clear that this Court has not expressed any



W.P. No.21990 of 2025

views with regard to the merits of the representation and it is open to the

concerned respondent to consider the representation on its own merits and in accordance with law.

6. The writ petition stands disposed of with the above directions. No costs.

23.06.2025

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

mka



W.P. No.21990 of 2025

WEB COPY

To:

- 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 Sub Registrar,
Sub Registrar Office, Nambiyur,
Erode District.



WEB COPY



W.P. No.21990 of 2025

MOHAMMED SHAFFIQ, J.

mka

W.P. No.21990 of 2025

23.06.2025