



W.P. No.23802 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.23802 of 2025

Venkatesan Krishnan

... Petitioner

Vs.

1. The District Registrar,
District Registrar Office,
Villupuram Puducherry Road,
Villupuram District 605 602.

2. The Sub-Registrar,
No.18, Kamarajar Salai,
Arakandanallur 605 752.

3. Dhanalakshmi

4. Meera

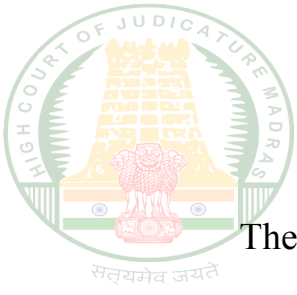
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus, calling for the records of the proceedings in pursuant the 2nd respondent in proceedings Na.No.48/2025 dated 11.06.2025 in objection petition No.31/2024 and quash the same and consequently direct the 2nd respondent to register the P1/2025 in favour of the petitioner.

For Petitioner(s) : Mr.P.Rajendra Kumar

For R1 and R2 : Mr.U.Baranidharan
Special Government Pleader

ORDER



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The present writ petition is filed praying for a writ of certiorarified mandamus challenging the impugned proceedings dated 11.06.2025, whereby the objection filed by the 3rd and 4th respondent was accepted and the petitioner's settlement deed was sought to be refused registration.

2. The learned counsel for the petitioner would point out the following portions of the impugned proceedings to submit that the impugned proceedings makes an enquiry into the title. The relevant portion is extracted hereunder:

இந்நிலையில் பார்வை 5 ல் காணும் கடிதத்தின்படி மேற்படி வாரிசுச் சான்றினை இணையத்திலிருந்து Verify Certificate உள்ளீடு செய்து அதன் மெய்த்தன்மையை அறிந்து கொள்ளலாம் என தெரிவிக்கப்பட்டுள்ளது. மேலும் இருதரப்பிலும் இருந்து பெறப்பட்ட வாக்குமூலங்கள் மற்றும் சான்றுகளை பரிசீலனை செய்ததில் திரு.கண்ணன் என்பவருக்கு தந்தை பெயர் கிருஷ்ணன் என குறிப்பிட்டு திருக்கோவிலூர் நடுவர் நீதிமன்றத்தால் குற்றவியல் பல்வகை மனு எண் 5992/2010-ன்படி சான்று வழங்கப்பட்டுள்ளது. மேலும் கிருஷ்ணன் மனைவி சாந்தா என்பவருக்கு தனலட்சுமி, கண்ணன், மீரா என்பவர்கள் முதல் கணவர் மூலம் பிறந்த வாரிசுகள் என இருதரப்பு வாக்குமூலத்திலும் தெரிவிக்கப்பட்டுள்ளது. மேலும் Hindu Succession Act 1956 Sec-10-ன்படி கிருஷ்ணன் மனைவி சாந்தா என்பவருக்கு சொத்தில் 1 பங்கு உள்ளது. அந்த பங்கானது சாந்தாவுடைய வாரிசுகளுக்கு சென்றடையும் என்பது புலனாகிறது. எனவே மேற்படி தடை மனு ஏற்கப்படுகிறது. இது தொடர்பாக தாங்கள் உரிய நீதிமன்றத்தை நாடி பரிகாரம் தேடிக்கொள்ள தெரிவிக்கப்படுகிறது.

சார்பதிவாளர்
அரகண்டநல்லூர்.

சார்பதிவாளர்
அரகண்டநல்லூர்

3. It is submitted by the learned counsel for the petitioner that enquiry into



title is alien to the jurisdiction of the registering authority. In this regard reliance

was placed in the judgment of the Supreme Court in the case of *K. Gopi v. Sub-Registrar*, reported in 2025 SCC OnLine SC 740. 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 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



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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.”

4. This Court finds that there is merit in the submission of the learned counsel for the petitioner inasmuch as the passages referred in the impugned order does indicate that there is an enquiry made by the registering authority into title which as submitted is in excess of the jurisdiction of the registering authority.

5. In view thereof, the impugned order is set aside. It is open to the petitioner to re-present the settlement deed for registration and on such representation the concerned respondent authority shall conduct an enquiry with the petitioner as well as the respondents 2 and 3 and thereafter proceed to register the settlement deed if it is otherwise in order. If for any reason, registration of settlement deed is sought to be refused, the concerned respondent shall issue



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refusal slip/order assigning appropriate reasons. 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.

6. Accordingly, the writ petition stands disposed of. No costs.

14.07.2025

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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MOHAMMED SHAFFIQ, J.

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