



W.P.No.23910 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.07.2025

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**Coram:
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

W.P.No.23910 of 2025

P.Rathinam

...Petitioner

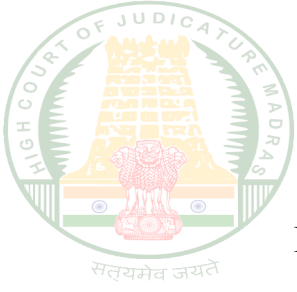
Versus

1.The Inspector General of Registration,
Registration Department,
100, Santhome High Road, Mullima Nagar,
Mandavelipakkam, Raja Annamalaipuram,
Chennai – 600 028.

2.The Sub-Registrar,
Office of the Sub-Registrar,
Sembium, Perambur,
Chennai – 600 011.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the check slip dated 17.03.2025 in T.P.No.TP/212952342/2025 issued by the Sub Registrar, Sembium, the second respondent refusing to register the settlement deed presented on 17.03.2025 in T.P.No.TP/212952342/2025 by quashing the same and also, directing the second respondent to register the document and return the same after completing all formalities of registration.



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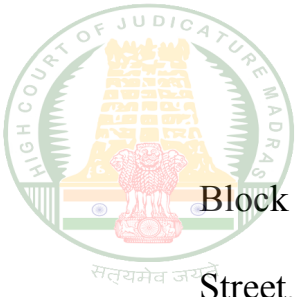
For Petitioner : Mr.R.Manickavel
for Mr.V.Nallasenapathy
For Respondents : Mr.U.Baranidharan,
Special Government Pleader

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 has been filed for issuance of a writ of certiorarified mandamus calling for the records relating to the Check Slip dated 17.03.2025 in T.P.No.TP/212952342/2025 issued by the 2nd respondent refusing to register the Settlement Deed presented on 17.03.2025 in T.P.No.TP/212952342/2025 by quashing the same and also, directing the 2nd respondent to register the document and return the same after completing all formalities of registration.

3. The learned counsel for the petitioner submitted that the petitioner's mother Mrs.Aadhiammal had purchased a property measuring an extent of 1,204 sq.ft comprised in Old S.No.119 Part, T.S.No.4 Part,



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Block No.18 of Sembium Village situated at Door No.8/3, Teeds Garden 1st

Street, Perambur, Chennai – 600 011 from one Sivabooshanam by virtue of
Sale Deed dated 27.11.1980 which was registered as Document No.4779 of
1980 on the file of the Sub Registrar Office, Sembium.

3.1. It is also submitted by the learned counsel for the petitioner that the petitioner's mother Mrs.Aadhiammal died intestate on 08.06.1987 leaving behind the petitioner as her only legal heir to succeed her property. Petitioner inherited the aforesaid property.

3.2. The learned counsel for the petitioner further submitted that the petitioner settled the subject property jointly in favour of his two sons viz., R.Vetrivel and R.Munusamy by way of a Settlement Deed. It is submitted that the petitioner presented the said Settlement Deed for registration on 17.03.2025 before the 2nd respondent as per the slot booking in T.P.No.TP/212952342/2025.

3.3. It is further submitted by the learned counsel for the petitioner that the 2nd respondent has issued a Check Slip dated 17.03.2025, refusing



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to register the aforesaid Settlement Deed. It is submitted that the 2nd respondent has refused the registration of Settlement Deed by stating previous Document No.4779 of 1980 was registered in respect of the sale of subject property by one Sivabooshanam in favour of Aadhiammal (petitioner's mother) and hence, the very same property cannot be settled again.

3.4. The learned counsel for the petitioner submitted that the petitioner presented the Settlement Deed Document along with the Encumbrance Certificate, certified copies of the Parent Documents and Patta standing in the name of erstwhile owners, but, the 2nd Respondent has refused to register the Settlement Deed and kept the same pending.

3.5. It is also submitted by the learned counsel for the petitioner that the petitioner sent a Representation dated 06.05.2025 to the 2nd Respondent, requesting to register the Settlement Deed which was presented by him. However, even after the receipt of petitioner's representation, the 2nd Respondent did not come forward to register the Settlement Deed.



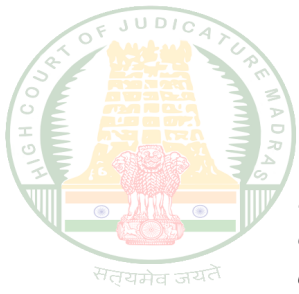
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3.6. It is submitted by the learned counsel for the petitioner that the reason stated by the 2nd respondent for refusing registration of the Settlement Deed is contrary to the decision rendered by the Hon'ble Supreme Court in the case of ***K.Gopi Vs. The Sub-Registrar & Ors. (Civil Appeal No.3954 of 2025 dated 07.04.2025)***, wherein, it has been held as follows:

“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



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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 rulemaking 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. The learned Special Government Pleader appearing for the respondents submitted that if the petitioner re-present the Settlement Deed along with his Reply to the reason for refusal stated in the impugned Check Slip dated 17.03.2025 before the 2nd respondent, the 2nd respondent would consider the same in the light of the decision rendered by the Hon'ble Supreme Court in the case of ***K.Gopi Vs. The Sub-Registrar & Ors. (Civil Appeal No.3954 of 2025 dated 07.04.2025)*** and register the Settlement Deed, if it is otherwise in order. It is also submitted that if the registration of Settlement Deed is refused for any reasons, a Check Slip/Order would be issued assigning the reasons for refusal.



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5. The above submissions made by the learned Special Government Pleader for the respondents has been fairly conceded by the learned counsel for the petitioner.

6. In view thereof, the impugned Refusal Check Slip dated 17.03.2025 issued by the 2nd respondent is quashed and this Writ Petition stands disposed of with a direction to the petitioner to re-present the Settlement Deed along with his Reply to the reason for refusal stated in the impugned Check Slip dated 17.03.2025 before the 2nd respondent. On such re-presentation by the petitioner, the 2nd respondent shall consider the same in the light of the decision rendered by the Hon'ble Supreme Court in the case of *K.Gopi Vs. The Sub-Registrar & Ors. (Civil Appeal No.3954 of 2025 dated 07.04.2025)* and register the Settlement Deed, if it is otherwise in order. If the 2nd Respondent refuses to register the Settlement Deed for any reasons, the 2nd respondent shall issue a Refusal Check Slip assigning the reasons for refusal. No costs.

04.07.2025

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Index : Yes/No

Speaking Order (or) Non-Speaking Order



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To
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- 1.The Inspector General of Registration,
Registration Department,
100, Santhome High Road, Mullima Nagar,
Mandavelipakkam, Raja Annamalaipuram,
Chennai – 600 028.
- 2.The Sub-Registrar,
Office of the Sub-Registrar,
Sembium, Perambur,
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MOHAMMED SHAFFIQ, J.

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