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W.P.No.25778 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.25778 of 2025

Mary Xavier @ Justine Mary,
W/o.Xavier Brutus Fernandez

... Petitioner

Vs.

1.The District Registrar,
District Registrar Office,
Chengalpattu District.

2.The Sub-Registrar,
Office of Sub-Registrar,
Sriperumbudur,
Chengalpattu District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the 2nd respondent to register the Settlement Deed presented by the petitioner, without insisting the original document No.1485/1993.

For Petitioner : Mr.T.M.Sundaram
for Mr.A.Arun Kumar

For Respondents : Mr.Stalin Abhimanyu
Additional Government Pleader



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ORDER

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2. The present writ petition is filed for a writ of mandamus, to direct the 2nd respondent to register the Settlement Deed presented by the petitioner, without insisting the original parent document in Doc.No.1485/1993.

3. According to the petitioner, she purchased a property comprised in S.No.173/4A1, measuring an extent of 2400 sq.ft., situated at Vadakal B Village, Sriperumbudur Taluk, Kancheepuram District from M/s.VGP Housing Development Corporation (Power Agent) for a valuable sale consideration vide Doc.No.1485 of 1993 dated 31.03.1993 and now she proposes to settle the aforesaid property in favour of her daughter namely Joan Xavier F Lydia. Accordingly, executed a Settlement Deed dated 16.06.2025 and presented the same before the 2nd respondent for registration.

4. The grievance of the petitioner is that the 2nd respondent has simply



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returned the Settlement Deed without registering it on the ground that the petitioner failed to produce the original parent deeds. Hence, this writ petition.

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5. The learned counsel for the petitioner placed reliance upon the Judgment of the Hon'ble Supreme Court in “**K.Gopi Vs. Sub-Registrar and others**, reported in **2025 SCC OnLine SC 740/2025 (2) CTC 777**”, wherein Rule 55-A of Registration Rules, 1908 was found to be *ultra vires* in the Registration Act, 1908.

In Paragraph Nos.13 to 17, the Hon'ble Supreme Court 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.

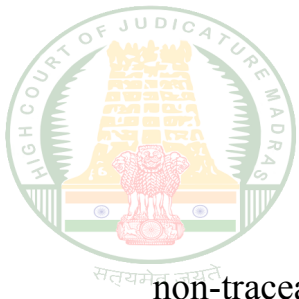
14. In short, Rule 55A provides that unless documents are produced to prove that the executant has a right in respect of the property subject matter of the instrument, the registration of the same shall be refused. Thus, if a sale deed is presented for registration, documents must be produced to demonstrate 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.



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

6. 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 insist on production of original previous documents or



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non-traceable certificate from the Police Department. The relevant portion of the

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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.”

7. When this was pointed out, the learned Additional Government Pleader appearing for the respondents would submit that this writ petition is premature inasmuch as there is nothing to show that the documents were in fact presented for registration. He would also submit that in case the Settlement Deed is presented for registration, the same would be registered keeping in view judgment of the Hon'ble Supreme Court in “**K.Gopi Vs. Sub-Registrar and others**, reported in **2025 SCC OnLine SC 740/2025 (2) CTC 777**” and the consequential Circular in **Lr.No.44420/C1/2024** dated **28.04.2025** if it is otherwise in order.

8. In view thereof, this writ petition stands disposed of. It is open to the petitioner to re-present the Settlement Deed and if any such Settlement Deed is re-presented, 2nd respondent shall register the Settlement Deed, if it is otherwise in



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order, keeping in view the law laid down by the Hon'ble Supreme Court in “**K.Gopi Vs. Sub-Registrar and others**, reported in **2025 SCC OnLine SC 740/2025 (2) CTC 777**” and the instructions laid down in Circular **Lr.No.44420/C1/2024** dated **28.04.2025**. 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. No costs.

18.07.2025

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

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To

- 1.The District Registrar,
District Registrar Office,
Chengalpattu District.
- 2.The Sub-Registrar,
Office of Sub-Registrar-Sriperumbudur,
Chengalpattu District.

MOHAMMED SHAFFIQ, J.

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