



W.P.No.29406 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2025

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Coram:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

**W.P.No.29406 of 2025
and W.M.P.No.32948 of 2025**

Raman

...Petitioner

Versus

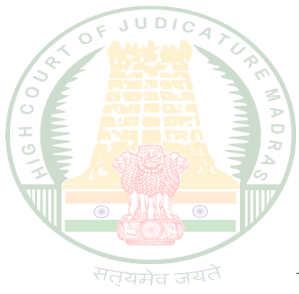
The Sub-Registrar,
Vadakkanandal Sub Register Office,
Chinnasalem Taluk,
Kallakurichi District.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records pertaining to the impugned order in Refusal No.RFL/Vadakkanandal/2/4 dated 29.07.2024 passed by the respondent and to quash the same as illegal, incompetent and ultra vires and consequently, direct the respondent to register and release the Settlement Deed dated 03.06.2024 to petitioner.

For Petitioner : Mr.V.Gunasekar

For Respondent : Mr.U.Baranidharan,
Special Government Pleader



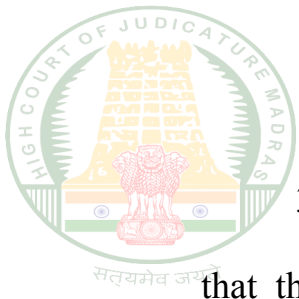
ORDER

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By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. The relief sought in this writ petition is to quash the order in Refusal Check Slip No.RFL/Vadakkanandal/2/4 dated 29.07.2024 passed by the respondent and consequently, to direct the respondent to register and release the Settlement Deed dated 03.06.2024 to the petitioner.

3. The learned counsel for the petitioner submitted that on 03.06.2024, petitioner presented a Settlement Deed before the respondent for registration along with the revenue records and other relevant documents. However, respondent vide Refusal Check Slip No.RFL/Vadakkanandal/2/4 dated 29.07.2024, refused to register the Settlement Deed that though the Settlement Deed presented by the petitioner was pending before the respondent for more than one month inasmuch as petitioner neither produced the Parent Document nor produced a non-traceable certificate stating that the Parent Document is missing.



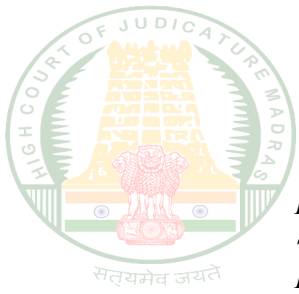
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3.1. It is further submitted by the learned counsel for the petitioner that the reason stated by the respondent for refusing registration of the Settlement Deed is contrary to the decision rendered by the Hon'ble Supreme Court in the case of ***K.Gopi 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



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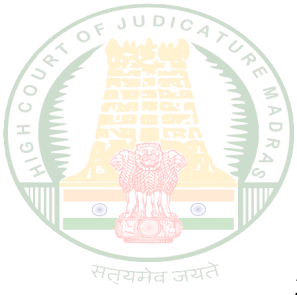
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property which he is seeking to transfer. Once the registering authority is satisfied that the parties to the document are present before him and the parties admit execution thereof before him, subject to making procedural compliances as narrated above, 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 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 respondent submitted that if the petitioner re-presents the Settlement Deed, the respondent would consider the Settlement Deed 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 same, if it is otherwise in order. He further submitted that if the registration of Settlement Deed is refused for any reasons, the respondent would issue a Refusal Check Slip/Order assigning the reasons for refusal.



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

6. In view thereof, this Writ Petition stands disposed of on the following terms:

(i) It is open to the petitioner to re-present the Settlement Deed before the respondent for registration.

(ii) On such re-presentation by the petitioner, the respondent shall consider the Settlement Deed 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 same, if it is otherwise in order.

(iii) If for any reason, registration of Settlement Deed is sought to be refused, the respondent shall issue a Refusal Check Slip/Order assigning appropriate reasons.

7. There shall be no order as to costs. Consequently, connected



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Miscellaneous Petition is closed.

12.08.2025

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Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

The Sub-Registrar,
Vadakkanandal Sub Register Office,
Chinnasalem Taluk,
Kallakurichi District.

MOHAMMED SHAFFIQ, J.



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