



W.P.No.28572 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.28572 of 2025

1.Sarala
2.K.Rajendran
3.K.Ravi
4.Geetha
5.Tamilselvi

.. Petitioners

Vs.

The Sub Registrar,
Polur,
Tiruvannamalai District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India

praying for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of respondent in RFL/Polur/96/2025 dated 04.07.2025 and quash the same and consequently direct the respondent to register the document No.TP/225128180/2025 dated 04.07.2025.

For Petitioners : M/s.S.Gajalakshmi

For Respondent : Mr.U.Bharanidharan
Special Government Pleader

O R D E R



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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. This writ petition has been filed seeking issuance of a writ of Certiorarified Mandamus, to call for the records on the file of respondent in RFL/Polur/96/2025 dated 04.07.2025 and quash the same and consequently direct the respondent to register the document No.TP/225128180/2025 dated 04.07.2025.

3. It is submitted by the learned counsel for the petitioners that the 1st petitioner intended to purchase an extent of 0.54.5 acres, that is 4/5th share of the total extent of 0.68 acres in Survey No.130/1 situated at Vasoore Village, Polur Taluk, Thiruvannamalai District for a sale consideration of Rs.3,45,500/- from one Kuppuswamy Naicker who is the father of the petitioners 2 to 5. The said Kuppusamy Naicker died on 30.01.1997, leaving behind petitioners 2 to 5 as his legal heirs. After his demise, petitioners 2 to 5 agreed to convey 4/5th undivided share out of the total 5 shares, to which



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they are entitled and the remaining 1/5th share belongs to one Palani who is the son of the first wife of late Kuppuswamy Naicker. After verifying the title of the property, the 1st petitioner paid a sum of Rs.3,45,000/- to the writ petitioners 2 to 5 and presented the sale deed for registration on 04.07.2025. However, the same was returned registration vide refusal check slip dated 04.07.2025. The refusal check slip dated 04.07.2025, is as follows:



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CHECK SLIP: மறுத்தளிப்பிற்கான காரணம்:

இவ்வலுவலகத்தில் 04.07.2025 தேதியில் தாக்கல் செய்யப்பட்ட கிரைய ஆவணம் TP/225128180/2025 வசூர் கிராமம் பட்டா எண் 75 அநச 130/1 ஏக்கர் 0.68 செண்டில் பொதுவில் 5ல் 4 பாகம் 0.54.1/2 செ. மேற்படி நெயில் உள்ள கிணர், 3HP மின்மோட்டார் பம்புசெட் மின் இணைப்பு எண் 242 உள்பட பொதுவில் 5ல் 4 பாகமும் அநச 131/-ஏக்கர் 0.69 செண்டில் பொதுவில் 5ல் 4 பாகம் 0.55 செண்டு நிலமும் ஆக மொத்தம் ஏக்கர் 1.37 செண்டில் பொதுவில் 5ல் 4 பாகம் ஏக்கர் 1.09 செண்டு நிலம் ஆனது திருமதி.சரளா க/பெ. ரவி என்பவரால் தாக்கல் செய்யப்பட்டது.

சொத்து குறித்து வாரிசு சான்று ஆய்வு செய்யப்பட்டதில் சொத்தின் உரிமையாளர் திரு.குப்புசாமி என்பவருக்கு இரண்டு மனைவிகள் முதல் மனைவியின் பெயர் திருமதி.ஆண்டாள் வயது 75 இரண்டாவது மனைவியின் பெயர் திருமதி.ஆண்டாள் வயது 69 இருவரும் இறந்து விட்டனர். முதல் மனைவிக்கு ஒரு மகனும் இரண்டாவது மனைவிக்கு நான்கு மக்களும் உள்ளனர். முதல் மனைவியின் மகனுக்கு ஒரு பாகமும் (One Share) இரண்டாவது மனைவிக்கு ஒரு பாகமும் (One Share) உரிமை உள்ளது. ஆனால் இரண்டாவது மனைவியின் வாரிசுகள் முழு சொத்தில் 5ல் 4 பாகம் விற்பனை செய்கின்றனர். ஆனால் மொத்த சொத்து ஏக்கர் 1.37 செண்டு இரண்டு பாகமாக பிரித்து அதில் ஒரு பங்கானது ஏக்கர் 0.68.1/2 செண்டு மட்டுமே உரிமை உள்ளது. ஆனால் தற்போது ஆவணத்தில் ஏக்கர் 1.37 செண்டில் 5 பாகமாக பிரித்து 4 பாகம் மட்டும் ஏக்கர் 1.09 செண்டு கிரையம் கொடுக்கப்படுகிறது. மேற்படி சொத்தில் ஏக்கர் 0.68.1/2 செண்டு மட்டுமே உரிமை உள்ள நிலையில் ஏக்கர் 1.09 செண்டு உரிமை இல்லாத காரணத்தினால் ஆவணம் மறுத்தளிக்கப்படுகிறது. எனவே சம்மந்தப்பட்ட உரிமையியல் நீதிமன்றத்தினை அனுக மனுதாரருக்கு தெரிவிக்கப்படுகிறது.

சார்பதிவாளர்
போலஸ்

4. It is further submitted by the learned counsel for the petitioner



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that the 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, has held that enquiry into title of the executant property sought to be conveyed is beyond the realm of enquiry of the registration authorities. The impugned proceedings makes an enquiry into the title, thus stands vitiated. 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



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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 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.”

(emphasis supplied)

5. This Court finds merit in the above submissions of petitioner.

6. In view thereof, the impugned order dated 04.07.2025 is set



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aside. It is open to the petitioners to re-present the sale deed for registration and on such representation the concerned authority shall register the sale deed if it is otherwise in order. If for any reason, registration of sale deed is sought to be refused, the respondent shall issue refusal slip/order assigning appropriate reasons.

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

06.08.2025

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

msv

To
The Sub Registrar,
Polur,
Tiruvannamalai District.



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MOHAMMED SHAFFIQ, J.

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