



W.P. No.29052 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.29052 of 2025

1. R.Padmavathi,
W/o.Late Ramasamy

2. Loganayaki,
W/o.Late Ravi Eswaramoorthy

... Petitioners

Vs.

The Sub-Registrar,
Office of the Sub-Registrar,
Kangeyam, Tiruppur District.

... Respondent

Prayer : This petition has been filed under Article 226 of the Constitution of India praying for issuance of writ of Certiorarified mandamus, calling for the records relating to the impugned Refusal Check Slip in RFL/Kangeyam/83/2025 dated 16.07.2025 issued by the respondent, quash the same and consequently direct the respondent to register the sale deed dated 15.07.2025 executed by us in favour of D.Sasikala, W/o.T.Jagadeeswaran in respect of the property measuring 9.00 acres (3.64.50 Hrs) comprised in SF No.775, Mudalipalayam, Kangeyam Taluk, Tiruppur District.



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For Petitioners : Mr. N.Manoharan

For Respondent : Mrs.A.Bakkiya Lakshmi
Government Advocate

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 challenging the refusal check slip dated 16.07.2025 whereby sale deed, dated 15.07.2025 which was presented, for registration was refused on the premise that the property originally belonged to the petitioners' father, viz., Krishnaswamy Gounder, who had effected a settlement deed on 13.08.1953 in favour of petitioner's mother, viz., Sarathammal. However, in 1961, the said settlement deed stood cancelled. The property, according to the petitioners, devolved upon them and their mother. A registered partition deed was executed between the mother and the petitioners on 25.03.1970. Subsequently, petitioners' mother



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also passed away on 28.03.2016. It is stated that petitioners are the sole legal heirs to the mother's property. However, the respondents had refused registration on the ground that the partition deed was based on a settlement deed which had been cancelled and therefore, the petitioners may not have any valid title to effect the settlement deed. The same is challenged by the learned counsel for the petitioner for two reasons:-

- (a) Assuming the settlement deeds was validly cancelled, however on the death of petitioners' father, property would devolve upon petitioners and their mother. Therefore, petitioners would continue to have a valid title over the property in any event; and
- (b) The respondent authority, acted in excess of jurisdiction by making an enquiry into title. Such an enquiry is beyond and in excess of the jurisdiction of the respondent and in this regard, reliance was placed on the judgment of the Hon'ble Supreme Court in ***Gopi -vs- Sub Registrar and Others*** reported in ***2025 SCC OnLine SC 740***. The relevant portion of the order dated 03.12.2020 is extracted hereunder:

“13. In contrast, Rule 55A empowers the registering officer to refuse registration unless the presentant produces the



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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



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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.



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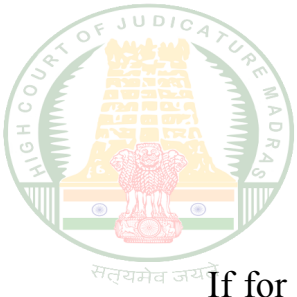
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16. Therefore, assuming that there is a power under Section 69 of the 1908 Act to frame the Rules, Rule 55A(i) is inconsistent with the provisions of the 1908 Act. Due to the inconsistency, Rule 55A(i) will have to be declared ultra vires the 1908 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.”

This Court finds that there is merit in the submission of the learned counsel for the petitioners.

3. At this juncture, learned Government Advocate appearing for respondent would submit that petitioners may re-present sale deed and on such re-presentation, the same would be registered, if it is otherwise in order.



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If for any reason, registration is refused, a refusal check slip/order would be issued after assigning reason, which was agreed to by learned counsel for petitioner.

4. In the light of the above discussion, this Court is inclined to interfere with the impugned refusal check slip issued by the respondent dated 16.07.2025 and accordingly, the same is hereby set aside. The petitioners would re-present the documents to the respondent and on re-presentation, the respondent shall register the sale deed, if it is otherwise in order. If for any reason, the Registering Authority refuses to register the sale deed, he shall assign reasons in the refusal slip/ order, which was agreed to by both learned counsel for petitioners as well as respondent.



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5. In the result, this Writ Petition stands disposed of. However, there shall be no orders to costs.

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Index: Yes/No
Speaking /Non-speaking order
Maya

To
The Sub-Registrar,
Office of the Sub-Registrar,
Kangeyam, Tiruppur District.



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MOHAMMED SHAFFIQ, J.

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Dated : 08.08.2025
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