



W.P.No.30723 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.30723 of 2025

1.P.Subbayal
2.Saminathan
3.Shanmugam

: petitioners

Vs.

1.The District Registrar,
Erode District, Erode

2.The Sub Registrar,
Nambiyur Sub Register Office,
Nambiyur, Erode District

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned Refusal Slip in Ref. No.RFL/Nambiyur/20/2025 dated 16.06.2025 in respect of the petitioners's property comprised in R.S.No.162/1 Punja Hectare 1.25.00 (Old S.F.No.326 patta No.358) and R.S.No.162/2 Punja Hectare 1.34.50 (Old S.F. No.325 Patta No.3225) totally Punja Hectare 2.59.50 except the Punja Hectare 0.07.19 (Punja Hectare 0.17 $\frac{3}{4}$ cent) remaining land Punjai Hectare 2.52.31 from this half of the common Punjai Hectare 1.26.16 (S.F. No.3.11 $\frac{3}{4}$ cent) entire Punjai land above said land along with pathway which sold by Kuppamuppan situated in Kurumandhur Village, Nambiyur Sub Registrar office Gobichettipalayam, Registration District Nambiyur Taluk, Erode dist and quash the same and consequently direct the 2nd respondent to forthwith register the partition deed dated 16.06.2025 presented by the petitioners without insisting for



W.P.No.30723 of 2025

the production of original parent documents and without name in the patta.

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For petitioners : Mr.T.Balaji

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 is filed challenging the refusal slip dated 16.06.2025 whereby partition deed dated 16.06.2025, which was presented for registration was refused registration on the premise that the requirement of Rule 55A of the Registration Rules is not satisfied and secondly, it is also stated that the parties to partition deed viz. the petitioners are not the legal heirs of Kuppamooppan, who is the original owner of the subject property.

2. It is submitted by the learned counsel for the petitioners that both the above reasons do not justify refusal to register the partition deed. As regards the first reason viz. the requirement of Rule 55A of the Registration Rules is not



W.P.No.30723 of 2025

WEB COPY

satisfied, it is submitted by the learned counsel for the petitioners that it is contrary to the decision of the Hon'ble 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.

2.1. The Hon'ble Supreme Court in the case of *K. Gopi v. Sub-Registrar*, reported in 2025 SCC OnLine SC 740, 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.



WEB COPY



W.P.No.30723 of 2025

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."

2.2. It is further submitted by the learned counsel for the petitioners that in view of the above order of the Apex Court in *K. Gopi cited supra*, a Circular in



W.P.No.30723 of 2025

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 refuse to register only on the ground of non-furnishing of the original documents. The relevant portion of the 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.”

2.3. Insofar as the second reason viz. the petitioners are not the legal heirs of Kuppamooppan, who is the original owner of the subject property, learned counsel for petitioners would submit that petitioners were not even put on notice thereby denying any opportunity to put forth their explanation. He would further submit that petitioners may be provided with an opportunity to explain how the reasons are unsustainable and contrary to facts.

3. When this was pointed out, learned Special Government Pleader for the respondents 1 and 2 would submit that if the partition deed dated 16.06.2025 is re-presented by the petitioners along with his explanation and any other relevant



W.P.No.30723 of 2025

WEB COPY

document in support of their contention, the same would be registered, if it is otherwise in order, in the light of judgment of the Supreme Court in the case of *K. Gopi v. Sub-Registrar* (supra) and the instructions laid down in Circular Lr.No.44420/C1/2024 dated 28.04.2025. If, for any reason, the Sub Registrar is of the view that the registration ought to be refused, he would do so after assigning reasons, which was agreed to by the learned counsel for the petitioners.

4. In the light of the above discussion, the impugned refusal check slip issued by the second respondent dated 16.06.2025 is hereby set aside. It is open to the petitioners to re-present the partition deed dated 16.06.2025 and if any such partition deed is re-presented along with his explanation and any other relevant document in support of their contention, second respondent shall register the partition deed, if it is otherwise in order, keeping in view the law laid down by the Hon'ble Supreme court in the case of *K. Gopi* cited supra and the instructions laid down in Circular Lr.No.44420/C1/2024 dated 28.04.2025. If for any reason, the respondent refuses to register the partition deed, he shall assign reasons in the refusal slip. It is made clear that this Court has not expressed any views with regard to the merits of the case and it is open to the concerned respondent to consider the matter on its own merits and in accordance with law.



W.P.No.30723 of 2025

WEB COPY

6. In the result, this Writ Petition stands disposed of. There will be no order as to costs.

28.08.2025

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

To

- 1.The District Registrar,
Erode District, Erode
- 2.The Sub Registrar,
Nambiyur Sub Register Office,
Nambiyur, Erode District



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W.P.No.30723 of 2025

MOHAMMED SHAFFIQ, J.

(mrn)

W.P.No.30723 of 2025

28.08.2025