



W.P.No.30799 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.30799 of 2025

D.Ashok Kumar

... Petitioner

Vs.

1. The Inspector General of Registration,
O/o. The Inspector General of Registration,
Santhome High Road,
Chennai.

2. The District Registrar,
O/o. District Registrar Office,
Erode District,
Erode.

3. The Sub Registrar,
Sub Registrar Office,
Thingalur,
Erode District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of writ of mandamus, to direct the respondents to register the petitioner settlement deed dated 23.06.2025 based on online Token Temporally No.TP/216345102/2025 and Reservation Serial No.1 (D-301) dated 15.07.2025 on the file of the third respondent in accordance with law.



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W.P.No.30799 of 2025

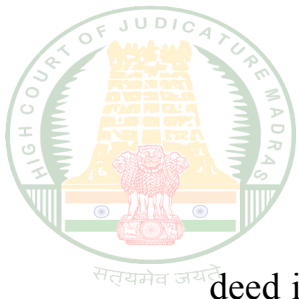
For Petitioner : Ms.S.Sengkodi
For Respondents : Mr.U.Baranidharan
Special Government Pleader

ORDER

This writ petition has been filed seeking issuance of a writ of mandamus directing respondents to register the settlement deed dated 23.06.2025 executed by the petitioner.

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

3. It is submitted by learned counsel for petitioner that the brother of petitioner's father executed a will in favour of petitioner as well as his brother on 04.01.2011 over the subject property comprised in Survey Nos.510-A & 511-A, Re-Survey No.517, Punjai Hectares 3.04.5, Tharu 10.38, Patta No.2015 situated at Srivallur Village, Gobichettypalayam Taluk, Erode District. Petitioner is currently in possession and enjoyment of the subject property. Thereafter, petitioner decided to execute the settlement



W.P.No.30799 of 2025

WEB COPY

deed in favour of his brother Vijayakumar and minor son Ilanathipan. When the same was presented for registration, third respondent refused to register the settlement deed on the ground that the original parental document and registered will have not been furnished.

4. It is submitted by the learned counsel for the petitioner that there is a Division Bench order of this Court in W.A.No.1160 of 2024 dated 27.09.2024, wherein it was found that non-submission/production of original title deed cannot be a reason for refusing to register the settlement deed. It is further submitted by the learned counsel for the petitioner that there is a judgment of 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.

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



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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 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



W.P.No.30799 of 2025

WEB COPY

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.”

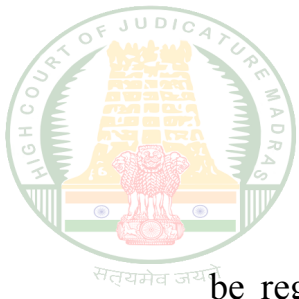
4.1.Learned counsel for the petitioner further placed reliance upon Circular in Lr.No.44420/C1/2024 dated 28.04.2025, wherein instructions have been issued that the registering officer shall not insist on production of original previous documents or non traceable certificate from the police department. 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.”

5. On this being pointed out, learned Special Government Pleader for respondents would submit that petitioner may re-present the settlement deed for registration and on such re-presentation, the settlement deed would



W.P.No.30799 of 2025

WEB COPY

be registered, if it is otherwise in order. If for any reason, registration is refused, a check slip would be issued after assigning reason, which was agreed to by the learned counsel for petitioner.

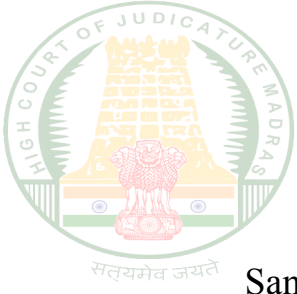
6. In view thereof, this Writ Petition stands disposed of with the direction to petitioner to re-present the document / settlement deed to concerned respondent within a period of four weeks from the date of uploading of the web copy without waiting for the receipt of certified copy. On such re-presentation, concerned respondent shall register the settlement deed within a period of four weeks from the date of petitioner's re-presentation of sale deed, if it is otherwise in order. No costs.

25.08.2025

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

To

1. The Inspector General of Registration,
O/o. The Inspector General of Registration,



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Chennai.

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W.P.No.30799 of 2025

MOHAMMED SHAFFIQ, J.

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W.P.No.30799 of 2025

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