



W.P. No.31486 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. 31486 of 2025

1.V.Saraswathi

2.V.Sabitha

... Petitioners

Vs.

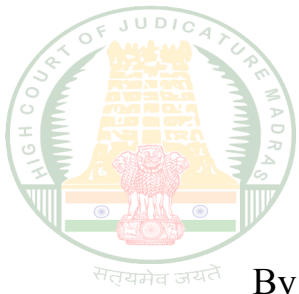
The Sub-Registrar,
Nambiyur,
Gobichettipalayam,
Erode District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to Refusal Check Slip No.RFL/Nambiyur/23/2025 dated 30.07.2025 and quash the same and further direct the respondent to register the settlement deed dated 30.07.2025 presented by the petitioner within a stipulated period.

For Petitioner(s) : Mr.S.Parthasarathy

For Respondent(s) : Mr.U.Baranidharan
Special Government Pleader



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ORDER

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

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2. The present writ petition is filed praying for a writ of Certiorarified Mandamus challenging the refusal slip whereby the petitioner's settlement deed which was presented for registration in respect of the subject properties was refused only on the premise that the parent documents were not produced.

3. It is submitted by the learned counsel appearing for the petitioners that the refusal to register the settlement deed on the premise that the parent documents was not produced cannot be sustained inasmuch as it is contrary to the law laid down by the Hon'ble Surpeme Court in ***K.Gopi Vs. The Sub-Registrar and Others*** reported in ***(2025 SCC Online SC 740)***, wherein it 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

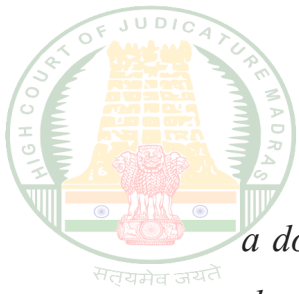


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a non-traceable certificate is issued by the police department along with an advertisement published in the local newspaper; giving notice of the loss of the previous original deed.

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



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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.”

4. Pursuant there to, a circular in Lr.No.44420/C1/2024 dated 28.04.2025 came to be issued wherein, the following instructions have been issued:-

“(4) In other words the Registering Officers 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. It was thus, submitted by the learned counsel for petitioners that the impugned refusal check slip would suffer from an error apparent, therefore, he



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would request that the same may be set aside.

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6. Mr.U.Baranidharan, learned Special Government Pleader for respondent would submit that the petitioner may represent the document/ settlement deed and the same would be considered and orders would be passed in accordance with law within the time frame to be fixed by this Court, which was agreed to by the learned counsel for petitioners.

7. In view thereof, the impugned refusal slip is set aside. Writ petition stands disposed of with a direction to the petitioners to represent the document/ settlement deed for registration before the appropriate authority/ respondent. The concerned respondent shall consider and register the document if it is otherwise in order, within a period of three weeks from the date of uploading of web copy order without waiting for the certified order copy. If for any reason the registering authority finds that the registration ought to be refused, the same shall be done after assigning reasons and after putting the petitioner and other interested parties on notice. 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 same on its own merits and in accordance with law. No costs.



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Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

To:

The Sub-Registrar,
Nambiyur,
Gobichettipalayam,
Erode District.

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MOHAMMED SHAFFIQ, J.

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