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W.P.No.33641 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

**W.P.No.33641 of 2024
and
WMP No.41682 of 2024**

R.Saravanakumar

... Petitioner

Vs.

The Sub Registrar Joint-I,
Erode,
Erode 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 relating to the impugned order/Refusal Check slip issued on 27.09.2024 in Refusal No.RFL/1 Sub Registrar Joint-I Erode/76/2024 by the respondent and to quash the same as illegal and consequently direct the respondent to register the sale deed to and in favour of the petitioner, within a time period stipulated by this Court.



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For Petitioner(s) : Mr.S.Bharath

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

Mr.V.S.Kesavan
for petitioners 1 and 2 in
impleading petition/
proposed respondents 2 and 3

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 impugned refusal check slip dated 27.09.2024 issued by respondent, whereby the sale deed dated 21.09.2024 was refused to be registered, on the premise that the petitioner had failed to produce the original partition deed No.796 of 1974, which is the basis on which the title is traced to the said property.



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3. It is submitted by the learned counsel for the petitioner that the above reason for refusal is ill-founded and 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, wherein it was 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.



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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.”

4. It is further submitted by the learned counsel for the petitioner that in view of the above order of the Apex Court a Circular in



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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.”

5. At this stage, Mr.V.S.Kesavan, learned counsel would submit that one R.S.Paramasivam and R.S.Rajagopal have filed WMP No.41682 of 2024 to implead them as respondent Nos.2 and 3 in the writ petition. He would further submit that the above impleading respondents have certain objections that have not been heard.

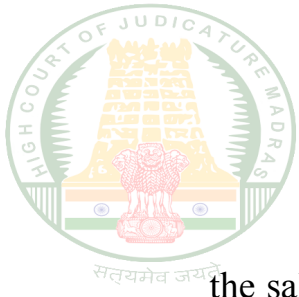


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6. When this was pointed out, learned Special Government Pleader for the respondent would submit that if the sale deed is re-presented by the petitioner, the respondent would put the petitioner as well as the said Paramasivam and Rajagopal on notice, hear the objections, that Paramasivam and Rajagopal may have, and thereafter proceed with the registration of the sale deed dated 21.09.2024, 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 consequential Circular in 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.

7. In the light of the above discussion, the impugned refusal check slip issued by the respondent dated 27.09.2025 is hereby set aside. It is open to the petitioner to re-present the sale deed dated 21.09.2024 and if any such sale deed is re-presented, respondent shall put the petitioner as well as the said Paramasivam and Rajagopal on notice and hear the objections of Paramasivam and Rajagopal, if any. Thereafter, the respondent shall register



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the sale deed, if it is otherwise in order, keeping in view the law laid down by 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 respondent refuses to register the sale deed, he shall assign reasons in the refusal slip, which was agreed to by both counsel for petitioner as well as respondents.

8. Though the petition for impleadment is filed by Paramasivam and Rajagopal and a counter was also filed, it was submitted by both the learned counsel for the impleading respondents and petitioner as well as the respondent in the writ petition that they do not intent to pursue the above implead petition, in view of the order that has now been passed. Hence, WMP No.41682 of 2024 is dismissed.



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9. In the result, this Writ Petition stands disposed of. There will be

no orders to costs.

17.06.2025

NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To
The Sub Registrar Joint-I,
Erode,
Erode District.



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MOHAMMED SHAFFIQ, J.

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