

W.P.(MD)Nos.10966 and 10967 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD) Nos.10966 and 10967 of 2025

V.Kodis

... Petitioner in both W.Ps.,

vs.

The Sub Registrar,
Kottaram Sub Registrar Office,
Kottaram,
Kanyakumari District.

... Respondent in both W.Ps.,

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the respondent in RFL/Kottaram/164/2024 and RFL/Kottaram/165/2024 dated 06.11.2024 and quash the same and further directing the respondent to entertain the release deed dated 24.10.2024 for registration and consequently to register and release the same.

For Petitioner
in both W.Ps, :Mr.M.P.Senthil

For Respondent
in both W.Ps., :Mr.R.Suresh Kumar
Additional Government Pleader



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COMMON ORDER

These writ petitions have been filed seeking for a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the respondent in RFL/Kottaram/164/2024 and RFL/Kottaram/165/2024 dated 06.11.2024, to quash the same and to direct the respondent to entertain the release deed dated 24.10.2024 for registration and to release the same.

2.The petitioner, in order to get proper title to the property had along with his mother and other siblings, executed two release deeds in favour of the subsequent purchasers of the property from his family, namely, Alphonse and Julise. They presented the release deeds on 24.10.2024, which was refused to be registered under the impugned orders.

3.The ground for refusal is that the original of the title deeds and the death and legal heirship certificate of the petitioner's grandfather, namely, Bagavathiappan Nadar, had not been produced.



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4.I heard Mr.M.P.Senthil, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondent.

5.Mr.M.P.Senthil urges that the issue is covered by a judgment of the Division Bench of this Court in ***P.Pappu Vs., The Sub-Registrar, Rasipuram, 2024 (5) CTC 575***. He states that the death of Bagavathiappan Nadar had taken place decades ago, when the death certificate and the legal heirship certificate were not issued, as a course, as is being done now. He further relies upon the order passed by the learned District Judge at Kanyakumari in G.W.O.P.No.101 of 2021 dated 15.06.2024 to adds that having obtained an order from the Court, the petitioner is not in a position to execute the document.

6.*Per contra*, Mr.R.Suresh Kumar points out that *Pappu's case* did not take notice of the judgment in ***Ammasi Kutti and another Vs. S.Manoharan and others, W.A.(MD) No.1989 of 2019, dated 30.04.2021***. He points out that Rule 55-A(i) of the Registration Rules does not govern the case, but it is the case of Rule 55-A(ii). Therefore, this question of law should be referred to a Larger Bench.



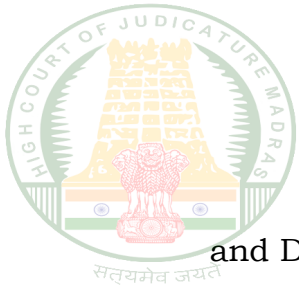
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7.I have carefully considered the submissions of both sides. I have gone through the records.

8.Mr.R.Suresh Kumar is correct that Rule 55-A(i) of the Registration Rules had been framed pursuant to the order passed in *Ammasi Kutti's case*. He is also correct that the said judgment has not been referred to by the Division Bench of this Court in *Pappu's case*. However, the Supreme Court has settled the issue in ***K.Gopi Vs. Sub Registrar and another, 2025 (2) CTC 777***, holding that Rule 55-A(i) is unconstitutional. Rule 55-A(ii) of the Registration Rules is not a stand alone provision that depends upon the existence of the circumstances mentioned under Rule 55-A(i). When Rule 55A(i) has been struck down, I necessarily have to follow the view of the Division Bench, which is in line with a view taken by the Supreme Court. Therefore, judicial discipline requires that I follow the view in *Pappu's case*. I should also point out that though the State was put on notice in *K.Gopi's case*, it did not bring to the notice of the Supreme Court regarding the view taken by the Division Bench in *Ammasi Kutti's case*.

9.Apart from that, as the grandfather of the writ petitioner, Bagavathiappan, had passed away before the Registration of Births



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and Deaths Act, 1969, come into force, which mandates registration of birth and deaths, the Sub Registrar cannot expect the petitioner to produce the said certificate.

10.Further more, the purchasers, Alphonse and Julise, have already purchased the property through an earlier registered deed dated 04.10.2019 from other family members. The present document is merely a confirmatory one.

11.In the light of the above discussion, these Writ Petitions stand allowed. The impugned orders are quashed. The respondent shall register the documents presented by the petitioner within a period of two weeks from the date of receipt of a copy of this order. No costs.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No

22.04.2025

To

The Sub Registrar,
Kottaram Sub Registrar Office,
Kottaram,
Kanyakumari District.



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V. LAKSHMINARAYANAN, J.

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