



W.P.(MD)No.14306 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 09.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.14306 of 2025

Kaliammal

... Petitioner

-VS-

1. The Joint Sub-Registrar No.2,
Dindigul,
Dindigul District.

2. The Cooperative Land Development Bank,
Dindigul.
(R2 is impleaded vide Court order dated 09.06.2025
in W.M.P(MD)No.11820 of 2025 in
W.P.(MD)No.14306 of 2025 by SSYJ)

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned Refusal Check Slip of the respondent in RFL/The Joint Sub-Registrar No.2, Dindigul/58/2025 dated 13.05.2025 and quash the same and consequently direct the respondent to register the settlement deed dated 13.05.2025 executed by the petitioner in favor of his son Rajasekaran.

For Petitioner	: Mr.B.Azhagesh
For R1	: Mr.S.Saji Bino Special Government Pleader
For R2	: No Appearance



W.P.(MD)No.14306 of 2025

WEB COPY

ORDER

The present writ petition is filed for a certiorarified mandamus to quash the Refusal Check Slip of the respondent in RFL/The Joint Sub-Registrar No.2, Dindigul/58/2025 dated 13.05.2025 and consequently, direct the respondent to register the Settlement Deed dated 13.05.2025 executed by the petitioner in favor of his son Rajasekaran..

2. The 1st respondent through the impugned order have stated that already a mortgage is created to the subject property which is registered as Document.No.2233 of 1971. The said mortgage was not discharged and the same is still subsisting. Further, the petitioner failed to produce the original documents and also the revenue documents.

3. Since the respondents submitted that financial institution is necessary party, the petitioner has filed an impleading petition and the Co-operative Land Development Bank, Dindigul was impleaded as a party to the proceedings. Notice was also issued, however, none appeared.



WEB COPY

4. In support of his contentions, the learned counsel appearing for the petitioner has relied upon the Judgment of the Hon'ble Supreme Court in the case of **K.Gopi vs. The Sub-Registrar and Others**, rendered in C.A.No. 3954 of 2025, wherein Rule 55A(i) of the Registration Rules was held to be invalid. Relevant portion of the said order reads 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.

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



WEB COPY

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.”

5. As per the above judgment, the respondents under Rule 55A(i), the respondents cannot direct the petitioner to cancel the mortgage. At the most, the respondents has to make an entry as a double entry.



W.P.(MD)No.14306 of 2025

WEB COPY

6. In the present case, when the Bank itself is not vigilant enough to make any steps to restrain the original vendor from encumbering the property, the respondents cannot take the position of the Bank and refuse to register.

7. Thus, the impugned Refusal Check Slip dated 13.05.2025 stands quashed. Accordingly, the writ petition is allowed by directing the 1st respondent to register the Settlement Deed dated 13.05.2025, within a period of four (4) weeks from the date of receipt of a copy of this order.

8. The writ petition stands allowed with the above observations.

No costs.

09.07.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



WEB COPY



W.P.(MD)No.14306 of 2025

S.SRIMATHY, J.

rgm

To

The Joint Sub-Registrar No.2,
Dindigul,
Dindigul District.

W.P(MD).No.14306 of 2025

09.07.2025

6/6