



W.A(MD)No.2478 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	21.04.2025
Pronounced on	24.06.2025

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

WA(MD)No.2478 of 2024
and
CMP(MD)Nos.17331 and 17332 of 2024

The Sub Registrar,
Mannachanallur Sub Registrar Office,
Mannachanallur,
Trichy District.

... Appellant

vs.

G.Ravindran

... Respondent

Prayer : Appeal filed under Clause XV of the Letters Patent,
against the order dated 04.11.2024 passed in WP(MD)No.26401 of 2024.

For Appellant : Mr.Veera Kathiravan
Additional Advocate General, assisted by
Mr.P.T.Thiraviam, Government Advocate
For Respondent : Mr.Isaac Mohalal, Senior Counsel for
Mr.P.Krishnan



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JUDGMENT

(Judgment of the Court was made by **J.NISHA BANU, J.**)

This Writ Appeal is directed against the order passed by the Writ Court dated 04.11.2024 passed in WP(MD)No.26401 of 2024.

2. The facts leading to the filing of this writ appeal are as follows:

The properties in S.Nos.219/15, 219/16, 219/18, 219/19, 219/20 and 219/21A totally having an extent of 3.08.50 Hectares (7.62 Acres) situated at Irungalur Village, Mannachanallur Taluk, Trichy District, belong to 15 persons and they were already issued with patta. The respondent/writ petitioner intended to purchase the subject properties and a sale deed was also executed in his favour. Though the document was presented for registration on three occasions, it was returned on the ground that the subject properties belong to Kalaimagal Saba and no one has right to deal with the subject properties, since Kalaimagal Saba is under liquidation. According to the respondent, in order to grab the subject properties, a fictitious sale deed was registered by impersonating



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the original owner in favour of Kalaimagal Saba, Kumarapalayam. In

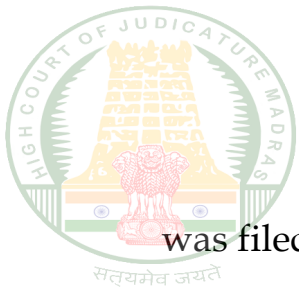
pursuant to the said sale deed, Kalaimagal Saba claimed title over the subject properties. Immediately, the original owner of the properties lodged a complaint and during enquiry, Kalaimagal Saba themselves admitted that they had been cheated by unknown persons by impersonating the original owner of the properties and also handed over the fictitious sale deed dated 26.03.1992 to the original owner. Subsequently, the original owner had executed settlement deeds and sale deeds in respect of the subject properties to various persons. Now, the vendors of the respondent numbering to 15 persons, have title over the subject properties on receipt of various sale consideration and all the revenue records were also mutated in favour of the respondent's vendors. Therefore, the respondent's vendors have valid title over the subject properties. However, the appellant refused to register the document presented by the respondent. Hence, the respondent filed the writ petition. The Writ Court relying upon the Division Bench judgment of this Court in the case of *N.Ramayee vs. Sub Registrar, Registration Department and another* reported in 2020 (5) LW 385, held that that the appellant has no power to refuse to register the subsequent document,



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on the basis of the agreement of sale, which was already registered in respect of the very same property. Accordingly, the Writ Court had directed the respondent to re-present the sale deed, which was executed in his favour within a period of one week with a further direction to the appellant to register and release the document within a period of one week thereafter. As against the said order, the Sub Registrar has filed this appeal.

3. The learned Additional Advocate General appearing for the appellant would contend that Kalaimagal Sabha was registered and commenced its activities with an object of collecting deposits and returning the same along with interest by conducting certain real estate business. Huge amount of money was collected from its 5,33,356 members. The money collected were invested in purchase of immovable properties not only across the State of Tamil Nadu, but also in other States. Since Kalaimagal Sabha committed certain irregularities and mismanagement in dealing with the funds of the society and when the Government of Tamil Nadu proposed to appoint a Special Officer to manage the affairs of the Society, a writ petition in W.P.No.514 of 1999

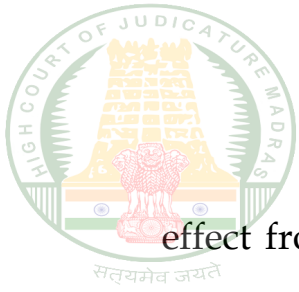


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was filed seeking to appoint a retired High Court Judge as the custodian

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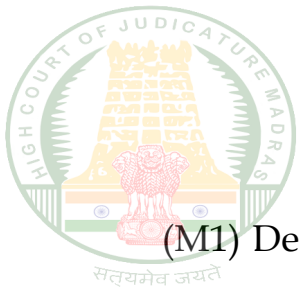
to take control of funds and assets of the Society. The Principal Seat of this Court passed an order appointing the Joint Receivers, consisting of a retired District Judge, an Advocate and the Special Officer proposed by the Government, to take charge of the properties purchased by Kalaimagal Sabha and directed to sell the properties on the basis of the time bound program, either by public auction or calling for tenders. Since there was no effective progress, several writ petitions were filed to direct the Special Officer and Joint Receiver of Kalaimagal Sabha, to divide the lands purchased by Kalaimagal Sabha on the basis of the market value and to allot the same to the writ petitioners therein, on the basis of the amount invested by them in Kalaimagal Sabha. The Principal Seat of this Court has disposed of the above batch of cases, by a common order dated 01.11.2021, *inter alia* directing the Secretary to Government, Commercial Tax and Registration Department, to appoint a Special Officer not below the rank of Assistant Inspector General of Registration, to take over the administration of Kalaimagal Sabha within a period of three weeks from the date of receipt of a copy of that order and the Receiver already appointed by the Court stood relieved with



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effect from the date on which, the administration of Kalaimagal Sabha was handed over to the Special Officer.

4. The learned Additional Advocate General further submitted that in the meanwhile, the office of the Joint Receivers of Kalaimaghal Sabha, has sent a letter dated 23.06.2017, to the appellant herein, to furnish a list of properties purchased by Kalaimagha Sabha within their jurisdiction which *inter alia* contains the subject properties in Survey Nos.219/15 etc., vide Doc.No.1110/1992, dated 26.03.1992, to an extent of 1.36% acres, in Irungalur Village. When the matter stood thus, various writ petitions had been filed, seeking a direction to the Special Officer of Kalaimagal Sabha, to conduct public auction or to fix fair price and to execute the sale deed in favour of the writ petitioners therein in respect of various immovable properties of Kalaimagal Sabha and those writ petitions are pending before the Principal Seat. While so, alleging non compliance of the order passed in W.P.No.43650 of 2006 etc batch, contempt petition in Cont.P(MD)No.1583 of 2023 came to be filed and pursuant to the order passed in the said contempt petition, the Government issued G.O(D)No.187, Commercial Tax and Registration



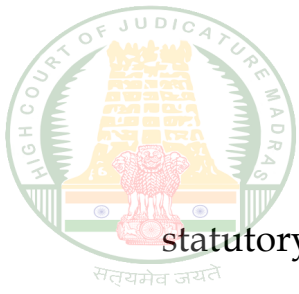
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(M1) Department, dated 13.06.2024, appointing the Inspector General of

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Registration as the Special Officer of Kalaimagal Sabha. When the matter stood thus, the respondent herein/writ petitioner has filed the present writ petition seeking a direction to register the sale deed in his favour and the Writ Court also without affording opportunity to the appellant to file counter affidavit, disposed of the writ petition by simply accepting the contention of the respondent that sale deed dated 26.03.1992 was registered in favour of Kalaimagal Sabha by impersonating the original owner and the Kalaimagal Sabha admitted that they were cheated by unknown persons.

5. The learned Additional Advocate General would also contend that the allegation of the respondent that as if he presented the document and the appellant has returned the same by refusing to issue check slip, is baseless. If the respondent had presented the document, the appellant would have issued refusal check slip with a valid reasoning for the same. If the Sub Registrar refused to register the document, the respondent could have approached the District Registrar as per Section 72 of the Registration Act, but without exhausting that



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statutory remedy, the respondent filed the writ petition and the Writ Court also erroneously entertained it. It was also submitted that the respondent or their vendors could have approached the Special Officer of Kalaimagal Sabha to release the subject properties from the list of properties purchased by Sabha, by furnishing the relevant documents through which they claim title. Further, when the title of the subject properties is questioned, the respondent ought to have impleaded his vendors which was not done by him.

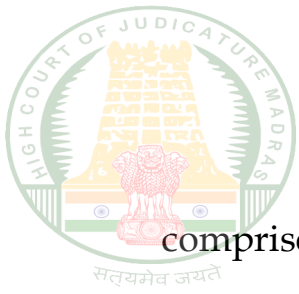
6. The learned Additional Advocate General would further state that the respondent had not produced the copy of the complaint given against the person whom according to him, by impersonation sold the property to Kalaimagal Sabha and there is no information about the FIR and the fate of the criminal case if any filed. Further, the vendors of the respondent have not obtained judgment and decree from the civil court that the sale deed dated 26.03.1992 is void and invalid. The submission of the respondent that Kalaimagal Sabha admitted that they were cheated by unknown persons in the purchase of subject properties itself would create suspicion of collusion or connivance on the part of



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the respondent's vendors with Kalaimagal Sabha. When such factual submissions were made by the respondent, the Writ Court ought to have given adequate opportunity to the appellant to counter the same, whereas, it merely accepted those submissions and disposed of the writ petition which is arbitrary.

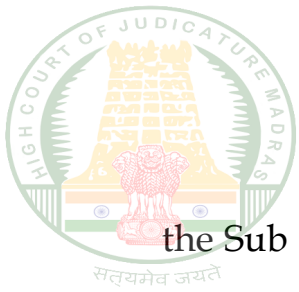
7. The learned Additional Advocate General would also contend that the decision in N.Ramayee's case relied upon by the Writ Court, was a case, where during the existence of one sale agreement, the Sub Registrar concerned refused to register another sale agreement in respect of the same property and in that fact situation, the Division Bench, while answering the reference, has held that the Registering authority has no power to refuse to register a document, except for the reasons provided under the Registration Act. However, in the present case, the respondent has sought to register the sale deed and not the sale agreement. Moreover, Rule 162(vii) of the Registration Rules, empowers the registering authority to refuse to register the document, if it is presented by a person who has no right to present it, and in the present case the respondent had no right to present the sale deed which



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comprised of 7.62 acres, including the 1.36% acres purchased by Kalaimagal Sabha. It has also been held by various courts that a Sub Registrar though not required in law to enquire into the validity of documents, he cannot act mechanically like a classical postman while registering documents, but should exercise all due diligence as per the law. Thus, the learned Additional Advocate General would submit that the order of the Writ Court is liable to be set aside.

8. Per contra, the learned counsel for the respondent would submit that the sale deed in the name of Kalaimagal Sabha is a fraudulent one. It was reported to the police and after enquiry, Kalaimagal Saba had realised the seriousness of the issue and handed over the fictitious sale deed dated 26.03.1992 to the respondent/writ petitioner. Under such circumstances, the respondent/writ petitioner filed WP.(MD)No.26401 of 2024 to issue a Writ of Mandamus directing the appellant SRO to register the sale deed. The appellant/SRO has not filed any counter affidavit in the writ petition. The Writ Court was pleased to dispose of the said writ petition by relying upon Para Nos. 47 to 49 of the order passed by the Division Bench in Ramayee's case. Now



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the Sub Registrar has filed the above writ appeal by raising title dispute in the grounds of writ appeal. The main ground urged by the appellant is that already there was a disputed sale deed dated 26.03.1992 in the name of Kalaimagal Sabha. The said sale deed is not only fictitious but also fraudulent. Be that as it may, the appellant/SRO has no jurisdiction to go into that issue in view of the legal position settled by the Division Bench in Ramayee's case.

9. He would further state that Section 48 of the Transfer of Property Act deals with the priority of right created by transfer. As per the said provision, where a person purports to create by transfer at different times rights in or over the same immovable property, and such rights cannot all exist or be exercised to their full extent together, each later created right shall, in the absence of a special contract or reservation binding the earlier transferees, be subject to the rights previously created. Reading of the said provision would clearly prove that there is no legal impediment for the appellant to register the successive sale deed. The decision in Ramayee's case was challenged before the Hon'ble Supreme Court and the SLP was dismissed confirming the decision in Ramayee's case.

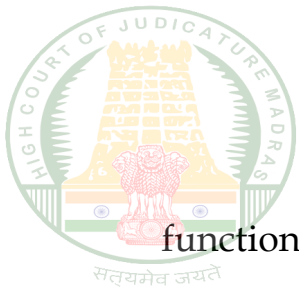


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10. The learned counsel for the respondent would further submit that the appellant/SRO can refuse to register a sale deed only in situations mentioned in Sections 19 to 22, 32 and 35 of the Registration Act. In the absence of any express provision in the Registration Act empowering the Registering Officer to enquire into the matter, by no stretch of imagination, the SRO could usurp the power of Civil Court.

11. The learned counsel for the respondent would rely upon the judgment of the Supreme Court in S.P.Velayutham's case reported in (2022) 8 SCC 210, wherein, it has been held that the registration of a document would comprises three essential steps. They are, firstly execution of the document. Secondly, presentation of the document for registration, and thirdly the act of registration. Where a challenge has to be laid to the execution and presentation, the remedy is only before the competent civil court for the person aggrieved and not for the SRO to refuse registration. In view of the law declared by the Apex Court, it is clear that the Sub Registrar while performing his duties under Sections 34 and 35 of the Registration Act, is not discharging any quasi-judicial



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functions. Therefore, the Sub Registrar while performing the statutory function to register the documents has no power of adjudication as he merely performs an executive act. Recently also, the Apex Court in Civil Appeal No.3954 of 2025 dated 07.04.2025, has held that the registering officer is not competent to go into the title. Thus, in the light of the judgments of the Division Bench and the Apex Court, it is not appropriate for the appellant to file the present appeal contrary to the settled legal position. Hence, the learned counsel would pray for dismissal of the appeal.

12. Heard both sides.

13. The crux of the appellant's contention is that since the subject properties belong to Kalaimagal Sabha, no one has right to deal with those properties and therefore, the appellant has rightly refused to register the sale deed presented by the respondent in respect of the subject properties. The case of respondent is that the title document owned by Kalaimagal Sabha in respect of subject properties is forged one and further the appellant has no adjudicatory power to decide



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whether the executant has any title over the subject properties. In

support of the said proposition, learned counsel for the respondent relied on a decision of the Apex Court in *K.Gopi vs. The Sub Registrar and Others* [Civil Appeal No.3954 of 2025 dated 07.04.2025]. The following passage of the judgment is worth reproduction for better appreciation of the present case on hand:

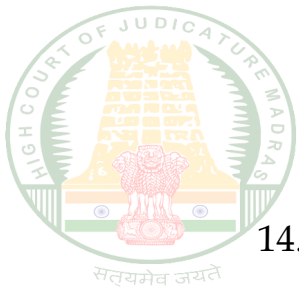
13. In contrast, Rule 55A empowers the registering officer to refuse registration unless the presentant produces the original deed by which the executant acquired rights over the subject property and an encumbrance certificate pertaining to the property, obtained within ten days from the date of presentation. 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.

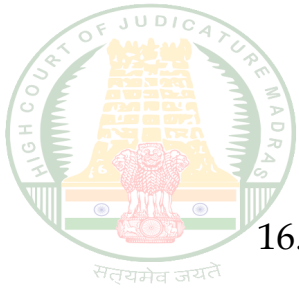
15. The registering officer is not concerned with the title held by the executant. He has no adjudicatory power to decide whether the executant has any title. Even if an executant executes a sale deed or a lease in respect of a land in respect of which he has no title, the registering officer cannot 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."



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14. In the case on hand, though respondent/writ petitioner presented the document for registration on three occasions, it was returned on the ground that subject properties belong to Kalaimagal Sabha. Therefore, the respondent has filed the writ petition for a Mandamus to the appellant to register the abovesaid document and the Writ Court has directed for registration.

15. In the above judgment of the Apex Court, it has been categorically held that the registering officer has no adjudicatory power to decide whether the executant has any title and for registration of the document, it is suffice that the parties to the document are present before him and the parties admit execution thereof before him, subject to making procedural compliances. If the said requirements are satisfied, then the document must be registered. Therefore, we permit the respondent to present the sale deed before the appellant for registration within a period of one month from today. On procedural compliances being made, the appellant shall proceed to register the sale deed.



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16. The Writ Appeal is accordingly dismissed. No costs.

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[J.N.B, J.] [S.S.Y, J.]
24.06.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

The Sub Registrar,
Mannachanallur Sub Registrar Office,
Mannachanallur,
Trichy District.



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W.A(MD)No.2478 of 2024

J.NISHA BANU, J.
AND
S.SRIMATHY, J.

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PRE-DELIVERY JUDGMENT MADE IN
W.A(MD)No.2478 of 2024
DATED : 24.06.2025