



Asmita Bandyopadhyay
Associate

REGISTRATION CANNOT BE REFUSED DUE TO LACK OF TITLE DOCUMENTS

The Supreme Court (SC), in the *K. Gopi* case,¹ held on April 7, 2025 that Sub-Registrar or Registering Authority (SR) cannot adjudicate on the seller's title document to execute transfer property and refuse registration in the absence of the same. It also struck down as *ultra vires* Rule 55(A)(i)² of the Tamil Nadu Registration Rules, 1949 (TN Rules) under the Registration Act, 1908 (Registration Act) as it is inconsistent with the parent Act.

Brief Facts

In 2022, Jayaraman Mudaliyar had executed a sale deed in favour of K. Gopi (Gopi) in respect of certain immovable property.

The SR had refused to register the sale deed on grounds that there were no title documents of the seller to the property. Gopi preferred a writ petition before the Madras High Court (HC) contesting the rejection, which was dismissed. Gopi then appealed before the District Registrar (DR).

Upon the DR's direction, the SR required Gopi to resubmit the documents with the proof of the seller's title to transfer such property. However, the SR again refused to register.

Subsequently, Gopi preferred a writ petition before the HC against the final order of refusal, which was also dismissed.

Gopi preferred a writ appeal against the SR and others before the SC.

Gopi's Contentions

SR's power is limited to the ambit of registering a document under the Registration Act without questioning the executant's title to the specific document through which the property is being transferred.

¹ *K. Gopi v. The Sub-Registrar & Ors.*, 2025 INSC 462.

² As per Rule 55A(i) the RA shall not register the document relating to immovable property until the seller produces the previous original deed by which the seller acquired right along with Encumbrance Certificate.

Rule 55(A)(i) of the TN Rules overrides the provision of Section 69³ as it does not, in any manner, provide the Inspector General with the authority to frame rules that empower the SR to refuse the registration of a sale deed if the seller fails to prove his title to the property.

Respondents' Contentions

SR would readily commence with the registration of the disputed sale deed.

HC had already adjudicated the validity of Rule 55(A)(i). Therefore, the SC cannot entertain an appeal pertaining to the same at this stage. The purpose of Rule 55(A)(i) was to curb registration of fraudulent transactions. It does not override Section 69.

SC's Judgement and Reasoning

SC, on perusal of Rule 55(A)(i) of the Registration Rules; Section 22-A and 22-B of the Registration (Tamil Nadu Amendment) Act, 2008 ("**Amendment Act**") and Section 69 of the Registration Act held that:

- No provision under the Registration Act or Sections 22-A and 22-B of the Amendment Act empowered the SR to refuse registration on the ground that the seller has failed to evidence his title over the document of transfer.⁴
- Rule 55(A)(i) of the TN Rules created unwarranted obstacles, as loss of original deed would empower the SR to refuse registration and would require a non-traceable certificate to be issued by the jurisdictional police in conjunction with an advertisement of the same published in the local newspaper to ensure registration.⁵
- SR lacked any adjudicatory power to examine the executant's title and Rule 55(A)(i) framed *via* Section 69 must remain consistent with the provisions of the Registration Act. Considering that Rule 55(A)(i) lacks consistency and overrides the Registration Act it was declared *ultra vires*.⁶
- Allowed the appeal and permitted Gopi to proceed with the registration of the sale deed.⁷

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³ Section 69 (*Power of Inspector-General to superintend registration offices and make rules*).

⁴ Paragraph 11 of the Judgement.

⁵ Paragraph 13 of the Judgement.

⁶ Paragraph 15 and 16 of the Judgement.

⁷ Paragraph 18 and 19 of the Judgement.