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Supreme Court declares Rule 55A(i) of the Tamil Nadu Registration Rules, 1949 *ultra vires* the Registration Act, 1908

In a landmark ruling, the Supreme Court of India (“**Supreme Court**”) in *K. Gopi vs. Sub-Registrar and Ors.*¹ held Rule 55A(i) of the Tamil Nadu Registration Rules, 1949 (“**Registration Rules**”) *ultra vires* the Registration Act, 1908 (“**Registration Act**”). Under Rule 55A of the Registration Rules, the sub-registrar cannot register any documents unless the original title documents and Encumbrance Certificates (“**ECs**”) relating to the property are verified. This brought in a challenge for many *bona fide* owners to transact their property in the absence of original title documents. The Supreme Court has now come to their aid, and it reemphasises that the Sub-Registrar, being a procedural authority performing administrative functions, cannot refuse to register an instrument on the basis that the executant lacks title to the property.

Brief facts

During the years 2007 to 2018, the Inspector General of Registration (“**IGR**”), Tamil Nadu, released a series of administrative circulars instructing sub-registrars to ascertain the title of the executants prior to registration, which was to be done by examining the original title deeds and ECs of the immovable property. These circulars were issued with the objective of preventing fraudulent transactions and to eliminate forgery. However, these circulars did not have a statutory backing under the Registration Act.

The veracity of such circulars was tested in *Ammasi Kutti vs. S. Manoharan*², wherein the Madras High Court (“**Madras HC**”) affirmed their legitimacy. Notably, the Madras HC also suggested the Government of Tamil Nadu to formally amend the Registration Rules to include provisions of the circular. Accordingly, the Tamil Nadu government officially incorporated Rule 55A into the Registration Rules *vide* order dated September 5, 2022³. Rule 55A of the Registration Rules formalised these circulars, requiring sub-registrars to validate the title of the executant by checking the previous original title documents and ECs. Alternatively, in case the previous original deeds were lost, the executants had to produce a non-traceable certificate issued by the police, in addition to public notice.

The registration department’s justification stemmed from the public interest to safeguard people from counterfeits and bogus dealings in property. The stringent requirements stipulated in Rule 55A of the Registration Rules ventured much beyond the legal formalities. Many citizens did not have access to their original deeds owing to familial disagreements, loss over generations, etc.

¹ 2025 SCC OnLine SC 740 (India)

² (2022) SCC OnLine Mad 5748 (India)

³ Commercial Taxes and Registration (J2) Department, G.O. Ms. No. 129 (Issued on September 5, 2022) (India)

For example, women attempting to register their legal portion of ancestral property were commonly coerced or stonewalled by male relatives who concealed original deeds. In such circumstances, women were made helpless not due to a lack of legal entitlement, but rather by a procedural barrier masquerading as a protective measure. According to the Madras HC in *M. Ariyanatchi vs. Inspector General of Registration*⁴, Rule 55A of the Registration Rules invalidated any progressive reforms by necessitating physical ownership of documents. Moreover, there were instances of people being solicited to pay bribes for the police non-traceable certificates, allowing corruption and delays to thrive. Citizens were ambiguous, property acquisitions were hindered, and loan approvals were disrupted.

In *Punithavathy vs. Inspector General of Registration*⁵ the Madras HC notably stated that Rule 55A of the Registration Rules infringed constitutional property rights granted by Article 300A of the Constitution of India. The court went on to say “*the right of the appellant to deal with the property which is protected under Article 300-A of the constitution, cannot be affected by a rule which has been introduced with the view to prevent bogus registrations. The Registering Authority can verify the ownership from the certified copy of the original which is also issued by the very same department*”. The Court acknowledged the practical societal dynamics that Rule 55A of the Registration Rules overlooked.

In *P. Pappu vs. The Sub-Registrar, Rasipuram*⁶ the Madras HC criticised the inflexibility, remarking that “*insistence on production of originals was a superfluous exercise*” and adding that such bureaucratic persistence “*will result only in encouraging underhand dealings*”.

Moreover, the reports extracted from the Tamil Nadu Information Commission Annual Report of 2015⁷ further highlighted complaints against sub-registrars over non-registration or delays due to the circulars, even prior to the implementation of Rule 55A of the Registration Rules.

In this case, the sale deed presented for registration was refused on the grounds of lack of title. Aggrieved by this, the appellant, filed a writ petition before the Madras HC and the same was dismissed. In the intra court appeal, the division bench affirmed the order of the writ court.

Subsequently, the appellant filed a Special Leave Petition (“SLP”) challenging the constitutionality of Rule 55A(i) of the Registration Rules.

Key issue

Whether the Sub-Registrar is empowered under Rule 55A(i) of the Registration Rules, framed under the Registration Act, to refuse the registration of an instrument on the grounds that the executant’s alleged lack of title, and whether such rule is constitutionally valid?

Findings of the Supreme Court

The Supreme Court’s rationale in declaring Rule 55A(i) of the Registration Act *ultra vires* the Registration Act, was grounded in the fundamental context of the Registration Act. The findings of the Supreme Court are as follows:

1. under the scheme of the Registration Act, the functions of the sub-registrar are to ensure procedural compliances in relation to the registration and do not have the power to ascertain the title of the executants. To state it otherwise, sub-registrars do not have any adjudicatory power to decide whether the vendor/executant has any title or not;
2. Rule 55A of the Registration Rules states that unless the presentant produces the original title documents and ECs, the sub-registrars will not register the document. Therefore, if a document is lodged for registration, then the executants must provide the original title documents and establish their ownership of the same. As a corollary

⁴ W.A.(MD). No. 856 of 2023, dated 27.06.2023

⁵ W.A. No. 1571 of 2024, dated June 5, 2024 (India)

⁶ 2024(5)C TC 575 (India)

⁷ Tamil Nadu Information Commission, Annual Report – 2015, No. 16168/C1/2016 (March 2016) (India)

Rule 55A of the Registration Rules empowers the sub-registrar to ascertain the title of the executants and adjudicate upon the same;

3. the rule making power of the IGR is circumscribed under section 69 of the Registration Act. None of the clauses in section 69 of the Registration Act confers power on the IGR to refuse registration of a document on the basis of lack of title. The Supreme Court declared that subordinate law cannot impose substantive requirements which are in contradiction to the governing legislation; and
4. For the foregoing reasons, Rule 55A(i) of the Registration Rules was found to be inconsistent with the Registration Act and therefore was declared *ultra vires* the Registration Act.

Conclusion

Rule 55A of the Registration Rules was a well-intentioned but misguided rule which confounded process with authority, resulting in the refusal of property rights to common people. The Supreme Court's decision to overturn Rule 55A(i) of the Registration Rules restores the subtle but essential distinction among procedural law and substantive rights.

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