

July 2026

Madras High Court strikes down Section 34-C of the Registration Act, 1908, inserted *vide* Registration (Tamil Nadu Amendment) Act, 2026

In a significant ruling, the Madurai Bench of the Madras High Court (“**Madras HC**”), in the case of *M/s. Dugars vs. State of Tamil Nadu, and other connected matters*¹, has struck down Section 34-C of the Registration Act, 1908 (the “**Registration Act**”), inserted *vide* the Registration (Tamil Nadu Amendment) Act, 2026 as unconstitutional. The Madras HC held that while curbing fraudulent property transactions is a legitimate goal, the conditions imposed by Section 34-C of the Registration Act exceeded the procedural framework of the Registration Act and infringed property rights under Article 300A of the Constitution of India. This decision reaffirms the limits of executive action in regulating property dealings and carries important implications for registration practices across India.

Over the years, concerns such as bogus property transactions, forged and fabricated documents, suppression of encumbrances have prompted additional safeguards and increased scrutiny in the registration process. In Tamil Nadu, these issues led a series of administrative and legislative measures. Previously, the Registration Department of the Government of Tamil Nadu released circulars that added extra pre-requisites for document registration such as mandatory production of prior original title documents, and encumbrance certificates. These measures subsequently culminated in Rule 55A of the Tamil Nadu Registration Rules, 1949. However, in *K. Gopi vs. Sub-Registrar*², the Supreme Court declared Rule 55A(i) *ultra vires* the Registration Act and held that the Inspector General of Registration (“**IGR**”) must not introduce substantive conditions beyond the scope of the parent Registration Act. For a detailed analysis, please refer to the [JSA Prism of April 24, 2025](#).

The Court further affirmed that the Sub-Registrars perform administrative and procedural functions and do not have any adjudicatory powers to decide the question of title.

Thereafter, Registration (Tamil Nadu Amendment) Act, 2026 was enacted to introduce Section 34-C into the Registration Act, wherein the legislature reintroduced the same contents of Rule 55A in the form of this new Section. Petitioners filed a batch of writ petitions before the Madras HC challenging the constitutionality of Section 34-C.

Brief facts

Section 34-C requires the registration authorities to insist on the production of original parent title deeds by way of which the executant has acquired title to the property, along with an EC for a prescribed period, before registering a document. This provision also had several stipulations

¹ 2026 SCC OnLine Mad 5550 (decided on June 23, 2026).

² 2025 SCC OnLine SC 740 (India).

1. **Mortgage:** If there was a mortgage over the property, the registering authorities need not register the documents unless the executant obtained a No Objection Certificate (“**NOC**”) from the mortgagee.
2. **Agreement to sell:** Where an agreement to sell was executed and not performed, the registering authorities could not register the documents until the limitation period for filing a suit for specific performance has expired.
3. **Ancestral property:** In circumstances where original parent deeds were unavailable because the property was inherited, the authorities insisted upon revenue records.
4. **Lost documents:** In cases where the original parent deeds were lost, the authorities demanded a non-traceable certificate from the police department in order to register the document.

Aggrieved by these procedures laid down in Section 34-C, the petitioners filed writ petitions before the Madras HC³ challenging the constitutional validity of Section 34-C of the Registration Act, on the grounds that it violated Articles 14, 21 and 300A of the Constitution.

Issue

The primary question before the Madras HC was whether Section 34-C of the Registration Act, inserted *vide* Registration (Tamil Nadu Amendment) Act, 2026 infringes constitutional rights or violates the provisions of the Constitution?

Findings and analysis

The Madras HC allowed the writ petitions and declared Section 34-C of the Registration Act as unconstitutional. The Court determined that while the goal of eliminating wrongful registrations is a genuine public purpose, the constraints imposed by Section 34-C exceeded beyond the procedural framework of the Registration Act. Further, the Court’s reasoning centered around the following points:

1. **Procedural laws *vis-à-vis* substantive laws:** The Madras HC reaffirmed that the Registration Act is primarily a procedural statute intended to facilitate the registration of documents and does not authorise the registering authorities to adjudicate questions relating to ownership, validity of title or rival claims.
2. **Original parent title deeds and revenue records:** The Madras HC noted that the revenue records are not conclusive proof of title and ownership. Similarly, the non-availability of original parent title deeds does not automatically imply that a person has no authority to deal with their property.
3. **Agreements for sale and limitation:** The Madras HC observed that determining whether limitation had expired may involve legal enquiry since the question of limitation may depend upon facts, documents, conduct of parties and interpretation of the agreement. It held that this requires determination of legal rights between parties and is customarily within the purview of a competent civil court.
4. **Mortgagee NOC:** The Madras HC noted that the presence of a mortgage will not preclude the transfer of such property. A transferee may acquire the property subjected to the mortgage and could have the option to redeem the mortgage. It is the Transfer of Property Act, 1882 that regulates laws governing the rights of mortgagors, mortgagees, and future transferees.
5. **Article 300A of the Constitution:** The Madras HC considered the pragmatic impact of Section 34-C of the Registration Act and concluded that the conditions imposed therein compromised the owner’s right to deal with the immovable property. It regarded the ability to deal with immovable property as a constitutional right under Article 300A of the Constitution, and statutory restrictions on such rights, including Section 34-C of the Registration Act, constitute an infringement.

³ W.P(MD)Nos. 7415, 6183, 9526 and 16387 of 2026

Conclusion

Tamil Nadu's attempts to tighten protections against fraudulent transactions have clearly been driven by noble public interest. However, Courts have repeatedly underlined that constitutional boundaries cannot be overstepped in the name of administrative efficiency. The decision reinforces a critical distinction; registration authorities are procedural gatekeepers, not adjudicators of title disputes. By requiring sub-registrars to evaluate mortgage NOCs, limitation periods, and revenue records, Section 34-C of the Registration Act effectively converted an administrative function into a quasi-judicial one without the corresponding procedural safeguards or appellate mechanisms.

As Governments across India continue to modernise, enhance and update their registration processes, the challenge will not merely be to strengthen safeguards against fraud, but to do so without disturbing the balance between executive administration and judicial determination of property rights.

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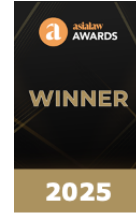
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