

W.A.(MD)No.8 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.01.2026

CORAM:

THE HONOURABLE **DR.JUSTICE G. JAYACHANDRAN**
AND
THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD)No.8 of 2026
and
C.M.P.(MD)No.59 of 2026

S.Amalraj

...Appellant

Vs.

1.C.Sivakumar

2.The Sub Registrar,
O/o.the Sub Registrar Melur West,
Madurai District.

... Respondents

PRAYER:- Writ Appeal – filed under Clause 15 of the Letters Patent, to set aside the order passed in W.P.(MD)No.18722 of 2025 dated 04.08.2025.

For Petitioner	: Mr.G.Karthikeyan Senior Counsel for Mr.P.Subbiah
For Respondent	: Mr.M.Rajesh (R1) Mr.A.Kannan (R2) Additional Government Pleader



W.A.(MD)No.8 of 2026

JUDGMENT

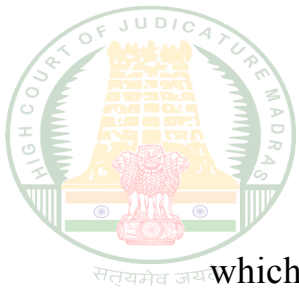
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(Judgment of the Court was delivered by **DR.G.JAYACHANDRAN, J.**)

It is a case where the document presented for registration by the first respondent/writ petitioner was not received by the Sub Registrar, in view of the rival claim made by the appellant herein. Hence, the first respondent/writ petitioner has approached this Court by way of a writ petition seeking certiorarified mandamus challenging the refusal check slip issued by the Sub Registrar/second respondent vide proceedings dated 01.07.2024 and for a consequential direction to the Sub Registrar to register the writ petitioner's sale deed dated 06.06.2024.

2.It is pertinent to note that the first respondent/writ petitioner had preferred the writ petition only against the Sub Registrar and has not impleaded the rival claimant/appellant herein, who objected the registration and succeeded before the Sub Registrar.

3.Before the learned Single Judge, the appellant had intervened and stated about the dispute before the civil Court between the writ petitioner and the appellant herein and identification of the property,

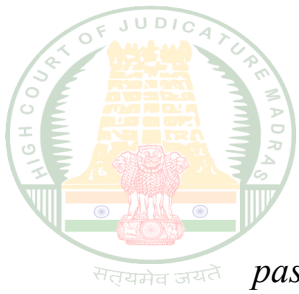


W.A.(MD)No.8 of 2026

which is sought to be registered. However, the learned Single Judge taking note of the said objection raised by the appellant/intervenor had passed the following order:

“3.It is seen the petitioner-s vendors have preferred an appeal along with condone delay petition and the same is pending. The petitioner's vendors have filed a suit for bare injunction restraining the other defendants from interfering in the peaceful possession. In the judgment, the trial Court has held that the plaintiffs have failed to prove that they are having entire 82 cents by relying on the common patta issued in the name of another person namely, Suryamurthy (the 5th defendant in the suit). Based on the joint patta, the injunction is declined. Even if the joint patta is taken into consideration, atleast the petitioner would be having ½ share in the joint patta. Therefore, it cannot be stated the petitioner is not having any interest in the property at all. Further through the impugned order, the respondent has elaborately discussed the rights of the parties and has stated that the petitioner-s vendors are not having title based on the suit decree.

4. This Court is of the view that title cannot be determined by the Sub Registrar. Moreover, as rightly pointed out by the learned counsel for the petitioner even if the joint patta is taken into consideration, the petitioner is having atleast ½ share. The allegation by the intervenor is that the petitioner is claiming S.No.73/1B. But the intervenor's claim is with regard to S.Nos.73/1A and 73/2A. Of course there may be some overlapping which has to be adjudicated before the Civil Court. In such circumstances, the respondent cannot



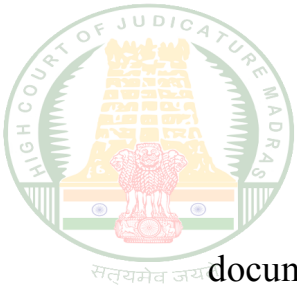
W.A.(MD)No.8 of 2026

WEB COPY

pass the impugned order. Further, this Court is of the considered opinion that the respondent cannot sit as a civil Court to determine the title dispute. Hence, the impugned order dated 01.07.2024 is quashed. The respondent is directed to register the sale deed within a period of four weeks from the date of receipt of a copy of this order. Pending appeal suit, the parties rights may be adjudicated and all the plea are available to all the parties and they can adjudicate before the appellate court.”

4. Being aggrieved, the appellant filed an application seeking leave of this Court to prefer an appeal, which was considered by this Court and after hearing the writ petitioner/first respondent herein, leave was granted vide order dated 08.12.2025.

5. Mr. M. Rajesh, learned Counsel for the first respondent/writ petitioner submitted that there are catena of judgments rendered by this Court as well as the Hon'ble Supreme Court, wherein there is a specific dictum that it is not the function of the Sub Registrar or the registering authority to ascertain whether the vendor has title to the property, which is sought to be transferred. Once the registering authority is satisfied that the parties to the document are present before him and the parties admit the execution thereof, subject to making procedural compliances, the



W.A.(MD)No.8 of 2026

WEB COPY

documents must be registered. The execution or the registration of a document will have the effect of transferring the rights, if any, that the executant possesses. If the executant has no right of title or interest over the property, the registered document cannot have the effect of transfer.

6.Relying upon the said observations and the provisions of Sections 22-A, 22B of the Tamil Nadu Registration Act, the learned counsel appearing for the first respondent submitted that the civil suit referred by the appellant is only for bare injunction. Though the said suit was dismissed, against the dismissal, the first respondent has preferred an appeal and the same is pending. Further, the claim of the appellant is not in respect of Survey No.73/1B, it is only in respect of Survey Nos.73/1B and 73/2A, which is not the subject matter of the sale deed.

7.Per contra, the learned Senior Counsel appearing for the appellant submitted that the judgments relied and cited by the learned counsel for the respondent is factually different from the case in hand. In the instant case, the suit filed by the vendor of the writ petitioner was dismissed. Despite dismissal, to create third party interest, the sale deed had been created by the writ petitioner and presented for registration.



W.A.(MD)No.8 of 2026

WEB COPY

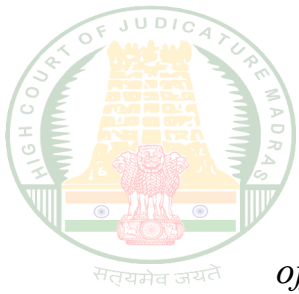
Since the same was objected by the appellant herein, the Sub Registrar has conducted a full-fledged enquiry and has passed the order refusing to register the sale deed.

8.In such circumstances, when there is a finding in the enquiry conducted by the Sub Registrar against the writ petitioner, he had filed the writ petition against that proceedings conveniently without impleading the appellant herein and the learned Single Judge has gone beyond the scope of the writ prayer and had discussed about the nature of the title dispute by expressing an opinion that being joint pattadar, the writ petitioner at least would have $\frac{1}{2}$ share in the property.

9.Heard the learned counsel appearing on either side and perused the materials placed on record.

10.Before proceeding further, we consider it appropriate to reproduce Sections 22-A and 22-B of the Registration (Tamil Nadu Amendment) Act, 2008 as under:

*“22-A Refusal to register certain documents -
Notwithstanding anything contained in this Act, the registering*



W.A.(MD)No.8 of 2026

WEB COPY

officer shall refuse to register any of the following documents namely:-

(1) instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease:

(i) belonging to the State Government or the local authority or Chennai Metropolitan Development Authority established under Section 9-A of the Tamil Nadu Town and Country Planning Act, 1971;

(ii) belonging to, or given or endowed for the purpose of any religious institution to which the Tamil Nadu Religious and Charitable Endowments Act, 1959 is applicable;

(iii) donated for Bhoodan Yagna and vested the Tamil Nadu State Bhoodan Yagna Board established under Section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958; or

(iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995;

unless a sanction in this regard issued by the competent authority as provided under the relevant Act or in the absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer;

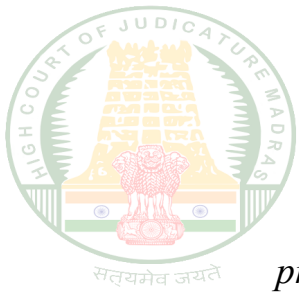
(2) instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned;

provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site "

22-B. *Refusal to register forged documents and other documents prohibited by law- Notwithstanding anything contained in this Act, the registering officer shall refuse to register the following documents, namely:-*

(1) forged document;

(2) document relating to transaction, which is



W.A.(MD)No.8 of 2026

WEB COPY

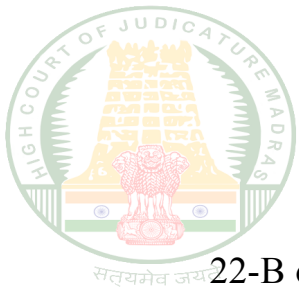
prohibited by any Central Act or State Act for the time being in force;

(3) document relating to transfer of immovable property by way of sale, gift, lease or otherwise, which is attached permanently or provisionally by a competent authority under any Central Act or State Act for the time being in force or any Court or Tribunal;

(4) any other document as the State Government may, by notification, specify.”

11.A Division Bench of this Court in *N.Ramayee Vs. Sub Registrar, Valapady, Salem District*, to the question, can the Sub Registrar issue refusal slip to a sale documents presented for registration citing prior registered agreement for sale or pendency of specific performance suit, this Court has held that the Sub Registrar has no right to refuse registration of subsequent document on the ground that the agreement for sale has already been registered. The Court further clarified, the act recognise power to refuse to register fraudulent document alone is contemplated under Section 22-B of the Act.

12.The Hon'ble Supreme Court, in the case of *K.Gopi vs. Sub Registrar*, while dealing with the judgment of this Court which upheld the order of the Sub Registrar refusing to register a document for want of proof of vendor's title and held that a plain reading of Sections 22-A and



W.A.(MD)No.8 of 2026

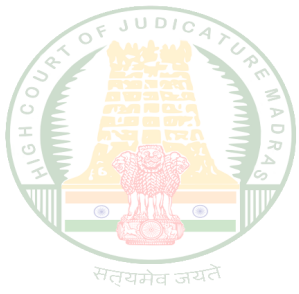
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22-B of the Act shows that on the ground of failure to produce document of title of the vendor, registration could not have been refused.

13.However, we find that the facts of the case in hand is slightly different. It is not merely a failure to produce the title document, but the property sought to be transferred is clearly held by the Court as not the property of the writ petitioner's vendor.

14.This Court of-late is confronting several appeals against the orders of this nature, where irrespective of the nature of dispute regarding the title, possession and nature of the property, the writ Courts pass orders directing the Sub Registrars to register the document without going into the nature of dispute, even without hearing the rival claimants. Allowing the persons, who have no title to execute sale deeds forging the records has lead to severe miscarriage of justice.

15.The following paragraphs in the judgment rendered by the Hon'ble Supreme Court in ***K.Gopi Vs. Sub Registrar*** are relied by the learned counsel for the first respondent.



W.A.(MD)No.8 of 2026

WEB COPY

“11. None of Clauses (a) to (j) provides for framing Rules conferring power on the registering authority to refuse registration of a document of transfer. No provision under the 1908 Act confers power on any authority to refuse registration of a transfer document on the ground that the documents regarding the title of the vendor are not produced, or if his title is not established. Even Sections 22-A and 22-B, incorporated by way of State amendment, do not have such a provision.

....

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.”

16.The above judgment no doubt says that in case, when the presenter of the document has no title or the document regarding title of the vendor was not produced or if his title is not established, the Sub Registrar cannot refuse registration. It does not mean that the presenter

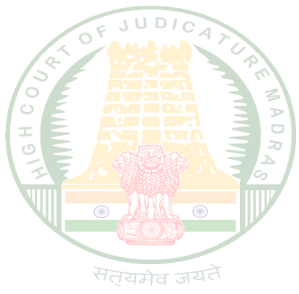


W.A.(MD)No.8 of 2026

WEB COPY

of the document can seek for registration of another man's property. If there is a prima facie material to show that the property sought to be registered belongs to other man, the Sub Registrar shall have every right to refuse registration. It needs to be emphasized that failure to produce the title deed of the vendor or the title under cloud, is entirely different from 'title not vest with the vendor'.

17.The observation of the Hon'ble Supreme Court as well as the Hon'ble Division Bench of this Court is only in respect of the property, where there is dispute with respect to title. In such cases, the Sub Registrar cannot deny the registration. However, where there is material to show that the vendor of the document has no title and the same has been fortified by a Court decree, then despite such judicial pronouncement, if the person, knowing fully well that his claim of title has not been established in the Court of law, wants to create third party interest and present the document for registration, it will be an act of fraud. The Sub Registrar can deny such registration. In such circumstances, the judgments relied by the writ petitioner would be of no assistant.

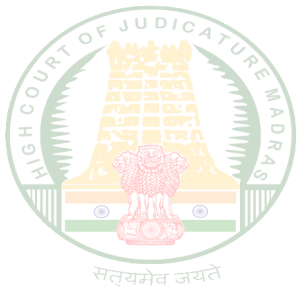


W.A.(MD)No.8 of 2026

WEB COPY

18.In this case, we find that the competent civil Court has held that the predecessor of the writ petitioner is not in possession of portion of the subject property and his injunction suit has been dismissed. After dismissal of the suit, the sale deed had been created by the plaintiffs. No doubt, against the dismissal of the suit, appeal is filed and the same is pending. Nonetheless as on the date of executing the documents in dispute the vendor of the writ petitioner had no title.

19.The case of the appellant herein is that he and his wife had purchased 6612 sq.feet of land within the extent of 2.10 Acres of land in S.No.73/1A, 73/1B and 73/2A of A.Valayapatti Village, Melur Taluk, Madurai District in the year 2001 and his wife purchahsed 6264 sq.ft. land in the above said survey numbers in the year 2002. Their vendors trace title from one Vasudevan Chettiar, in whose name the patta stood. Later, after the demise of Vasudevan Chettiar, one Malayalam had got his name included in the patta by playing fraud. Relying this joint patta in respect of S.Nos.73/1B1 and 73/2A1A, O.S.No.192 of 2012 before the District Munsif Court, Melur, was filed by Malayalam and his heirs, namely Oyyakkal, Pothumponnu against the appellant herein and others claiming possession over 82 cents of land.

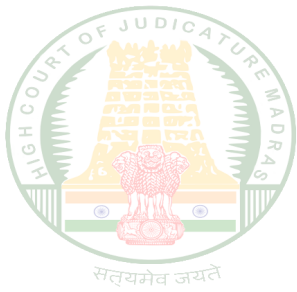


W.A.(MD)No.8 of 2026

WEB COPY

20.The claim of the plaintiffs, who are the vendors of the writ petitioner, that the father of the Malayalam was initially holding 6 acres 10 cents of the land bearing S.No.73/1 and after alienating major part of it to Vasudeva Chettiar in the year 1968, he retained 82 cents, was rejected by the trial Court in view of the fact that MokkaKaruppan, who is the father of Malayalam, had only 5 acres 65 cents in S.No.73/1. No proof for his possession in respect of 63 cents in S.No.73/1A, whereas the purchase of 2.28 acres of land in S.No.73/1 and 73/2A by Vasudeva Chettiar from Malayalam and Koothazhalagan is an admitted fact.

21.Later, the land in these survey numbers had been plotted out and sold to several third parties from the year 1968 onwards. Therefore, after examining the title for collateral purpose the Court held that Malayalam and his descendants have failed to prove possession to get the relief of injunction. Therefore, when the the writ petitioner presented the document for registration, on objection the Sub Registrar has conducted enquiry and refused to register the document recording the fact that the civil Court has dismissed the suit for injunction laid on joint patta, which is not the proof of title.



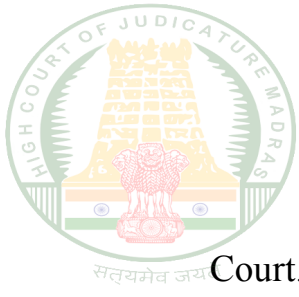
W.A.(MD)No.8 of 2026

WEB COPY

22.The civil Court judgment in O.S.No.195 of 2012 tested the title incidentally for collateral purpose and has given a finding that the vendor of the writ petitioner had no title in respect of the land sought to be alienated. The documents placed before him during the course of enquiry clearly indicates that the vendor to the respected document wants to convey the other man's property, which he intended to convey based on joint patta allegedly obtained by fraud. Thus, it is the power exercised by the Sub Registrar to refuse registration under Section 22-B of the Act.

23.We are of the considered view that the Sub Registrars have every right to refuse registration of a document presented by a person in respect of other man's property claiming, as if it is his property. It is nothing but an attempt producing forged document to create third party right.

24.The expression 'forged document' used in Section 22-B of the Act, has to be extended to the document of this nature also. Hence, the order passed by the learned Single Judge is to be set aside and the parties are bound to workout their remedy before the competent civil



W.A.(MD)No.8 of 2026

Court. If any registration effected pursuant to the order passed by the learned Single Judge in W.P.(MD)No.18722 of 2025, in view of the dismissal of the writ petition, the said registration stands nullified.

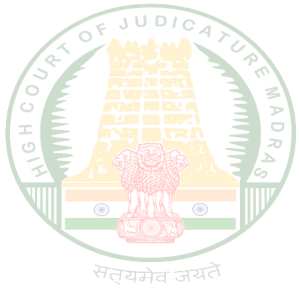
25.In the result, with the above observations, the order made in W.P.(MD)No.18722 of 2025 dated 04.08.2025 is set aside and the Writ Appeal stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

[G.J., J.] & [K.K.R.K., J.]
22.01.2026

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To

The Sub Registrar,
O/o.the Sub Registrar Melur West,
Madurai District.



WEB COPY



W.A.(MD)No.8 of 2026

DR.G. JAYACHANDRAN, J.
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W.A.(MD)No.8 of 2026

22.01.2026