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ORIGINAL TITLE DEED IS NOT MANDATORY FOR DOCUMENT REGISTRATION

The Madras High Court has recently clarified that the production of original title deeds is not mandatory for the registration of property documents. This clarification stems from the court's examination of Rule 55A of the Tamil Nadu Registration Rules, which previously empowered Sub-Registrars to refuse registration if the original parent document was not produced.

In a notable case, the court observed that Rule 55A lacked statutory authority and was inconsistent with the provisions of the Registration Act, 1908. The court emphasized that the right to hold and transfer property is a constitutional right under Article 300A, and any subordinate legislation, such as Rule 55A, cannot override this fundamental principle. The Madras High Court has consistently held that Rule 55A of the Tamil Nadu Registration Rules, which permitted Sub-Registrars to refuse document registration in the absence of original title deeds, lacks statutory authority and cannot override the provisions of the Registration Act, 1908. In the case of Murugan vs. The District Registrar, the court observed that such rules cannot overreach the legislation and are beyond the powers conferred under Section 69 of the Registration Act. Furthermore, in Palanisamy vs. The Sub Registrar, the court emphasized that the requirements under Rule 55A must be **followed scrupulously** to prevent fraudulent registrations. However, it also **highlighted that insisting on original documents**, especially when certified copies are available, may not always be practical.

The court further noted that insisting on the production of original documents, especially when certified copies are available and verifiable within the registrar's office, is an unnecessary exercise. The court also highlighted that obtaining non-traceability certificates for lost documents often involves cumbersome procedures and potential malpractices, making such requirements impractical.

Therefore, based on these interpretations, the court concluded that Sub-Registrars should not refuse to register property transfer documents solely due to the non-production of original parent documents or non-traceability certificates. Certified copies, which can be cross-verified with the records available in the registrar's office, should suffice for the registration process.

K.Subramaniyan vs The Sub Registrar

W.P.No.18848 of 2024

Madras High Court on 19 July, 2024

In the W.P.No.18848 of 2024 the Madras High Court by its order dated 19/7/2024, quashed the Refusal slip issued by the Sub Registrar Manalurpettai and directed to register the sale deed of the Petitioner.

It is clear from the settled legal position that the Sub-Registrar does not have the power to refuse registration of a sale deed on the ground of deciding the title of the property.

The rejection of the sale deed in this case appears to be **legally unsustainable**, as multiple judgments from the Madras High Court and the Supreme Court of India have established that:

- Sub-Registrar Cannot Decide Title:** The Sub-Registrar is not a **competent authority to adjudicate on title disputes** (Satya Pal Anand v. State of M.P., (2016) 10 SCC 767; Abdullasa v. Inspector General of Registration, 2021 2 CWC 451).
- Non-Production of Parent Documents is Not a Ground for Refusal:** Courts have held that the **absence of a parent document cannot be a valid reason for refusing registration** (K.S. Vijayendran v. Inspector General of Registration, (2011) 2 LW 648).

3. **Objections by Third Parties Do Not Justify Refusal: If a third party raises objections, the proper course is to seek remedies before a competent civil court**, not to prevent registration (R. Madhupriya v. Inspector General of Registration, 2020 SCC Online Mad 20112).
4. **Encumbrances Do Not Bar Registration: Even if a mortgage or lease exists, the Transfer of Property Act permits further transfers subject to such encumbrances (N. Ramayee v. Sub-Registrar, (2020) 6 CTC 697).**

The Madras High Court, in multiple cases, has consistently ruled that a Sub-Registrar's role is ministerial and not judicial. **If the necessary formalities under the Registration Act are fulfilled, the document must be registered, and title disputes should be resolved by civil courts.**

Sub-Registrars cannot refuse registration of documents solely on the grounds that supporting documents such as Chitta, Adangal, FMB sketch, or Patta are not produced.

The court emphasizes that Sub-Registrars cannot refuse registration of documents solely on the grounds that supporting documents such as Chitta, Adangal, FMB sketch, or Patta are not produced. This court, in Subrmani vs. The Sub Registrar, Rasipuram in W.P. No.11056 of 2024 dated 26.04.2024 has elaborately held as follows:

1. Legal Precedents Cited:

- **The Trust for Education and Rehabilitation of Disabled Orphans and Destitutes v. The Inspector General of Registration, Chennai (2002 (1) MLJ 244):**
 - Held that a Sub-Registrar **cannot refuse registration** merely because a document is not accompanied by Chitta, Adangal, or FMB sketch.
- **Jesupalam vs Registrar (2015 SCC Online Mad 7660):**

- Reiterated the same principle that registration cannot be refused for non-submission of Chitta, Adangal, or FMB sketch.

2. Constitutional Interpretation of Registration Act:

- The Court highlights that when **Constitutional Courts (High Court and Supreme Court)** have interpreted the Registration Act and established legal principles, **these decisions must be followed.**
- The Inspector General of Registration, who is a party to these cases, **cannot issue circulars contradicting these judgments.**

3. Invalidity of Circulars Mandating Additional Documents:

- If any circular is issued by the Registration Department requiring **Patta, Chitta, Adangal, or FMB sketch** as a **prerequisite for document registration**, such a circular is **unsustainable in law.**

Legal Principles:

1. Sub-Registrar Cannot Refuse Registration Due to Title Disputes:

- **Case: Abdullasa v. Inspector General of Registration (Citation: Not fully provided)**
 - Held that the **Registrar cannot refuse to register a document merely because a rival claimant objects on the basis of a different source of title.**
 - The role of the Sub-Registrar is **ministerial**, meaning they are not empowered to adjudicate title disputes.

2. Registrar Has No Authority to Conduct Title Inquiry:

- **Case: Satya Pal Anand v. State of M.P. (2016) 10 SCC 767**
 - The Supreme Court ruled that **enquiry into the title of the executant (the person executing the document) is beyond the powers of the Sub-Registrar.**

- The Registration Act does not grant the Sub-Registrar **judicial powers** to decide ownership disputes.

Conclusion:

- A Sub-Registrar must register a document if it complies with the formal requirements of the Registration Act, 1908.
- If there is a title dispute, it must be settled in a civil court, not by the Sub-Registrar.
- Objections from third parties claiming ownership cannot be a reason for refusal to register a document.
- This judgment reinforces that a Sub-Registrar's duty is limited to verifying the document under the Registration Act and not demanding additional revenue records like Chitta, Adangal, or FMB sketch as a mandatory requirement for registration. Any refusal on such ground. This judgment ensures that registration offices **do not act as courts** and that ownership disputes are resolved through proper legal channels.

ABSENCE OF PARENT DOCUMENT IS NOT A GROUND FOR REFUSAL:

1. Absence of Parent Document Is Not a Ground for Refusal:

- Several cases have held that a Sub-Registrar cannot refuse registration solely because the original parent document (title deed) is not produced.
- Relevant Judgments:
 - K.S. Vijayendran v. Inspector General of Registration (2011) 2 LW 648
 - Lakshmi Ammal v. The Sub-Registrar, Villivakkam (2015 SCC OnLine Mad 5868)
 - C. Moorthy v. Sub-Registrar, Aruppukottai (2018 SCC OnLine Mad 3898)

2. Introduction of Sub-Rule XX in Rule 162 & Its Legal Status:

- Based on the above judgments, Sub-Rule XX was introduced in Rule 162, authorizing the Sub-Registrar to refuse registration if the original title deed was not produced, as per Rule 55-A.
- However, this was later challenged in courts.

3. Sub-Rule XX of Rule 162 Has No Legal Standing:

- **Federal Bank v. Sub-Registrar (2023 2 CTC 289)**
 - **The Court held that Sub-Rule XX of Rule 162 has no statutory backing and cannot be enforced to refuse registration.**
- **M. Ariyanatchi v. Inspector General (W.A.(MD) No. 856 of 2023, dated 27.06.2023)**
 - **A Division Bench of the Court upheld the same view, stating that:**
 - **If the original parent document is with one co-owner, the Sub-Registrar can accept an undertaking or affidavit from the vendors stating that the document is with another person.**
 - **Refusal to register merely for non-production of the parent document is not legally justified.**

Conclusion:

- **A Sub-Registrar cannot refuse registration solely due to the absence of the original title deed.**
- **If the document is with a co-owner or another person, an affidavit or undertaking is sufficient for registration.**
- **The rule introduced to allow such refusal (Sub-Rule XX of Rule 162) lacks statutory authority and has been invalidated by the Court.**

This ruling ensures that property transactions are not unfairly obstructed by unnecessary procedural requirements imposed by registration authorities

POLICE CANNOT INTERFERE WITH DOCUMENT REGISTRATION:

Key Legal Principles Established:

1. Police Cannot Interfere with Document Registration:

- **Case: R. Madhupriya v. Inspector General of Registration (2020 SCC Online Mad 20112)**
- **The Court held that police officers have no authority to issue letters instructing Sub-Registrars to refrain from registering documents.**
- **Such interference violates the statutory functions of the Registrar under the Registration Act, 1908.**

2. Disputes Must Be Resolved by a Civil Court, Not Police:

- **If a party has an objection to a registration, they must approach the civil court to obtain an appropriate order.**

- Using police machinery to block registration is unlawful and has been consistently condemned by the courts.

3. Registrar Has No Power to Refuse Registration Solely on Police Instructions:

- The Registrar must follow the Registration Act, and police instructions cannot override statutory provisions.
- Without a valid legal order from a competent court, the Sub-Registrar cannot refuse to register a document based on a police letter.

Conclusion:

- Police have no role in preventing document registration.
- Registration cannot be refused merely based on police communication.
- Disputes over registration should be settled through a civil court, not through police interference.

This ruling ensures that property transactions are governed by law, not by administrative or police influence.

EXISTENCE OF A MORTGAGE DOES NOT PROHIBIT FURTHER TRANSFERS:

1. Existence of a Mortgage Does Not Prohibit Further Transfers:

- Case: N. Ramayee v. Sub-Registrar (2020) 6 CTC 697
- The Court held that even if a mortgage has been created on a property, the mortgagor (owner) is not prohibited from making further transfers (e.g., sale, gift, lease).
- The new buyer takes the property subject to the existing mortgage.

2. Section 56 of the Transfer of Property Act, 1882 – Marshalling by Subsequent Purchaser:

- When an owner mortgages multiple properties and later sells one of them to another person, the buyer has a right to:
 - Have the mortgage debt satisfied out of the properties not sold to him, if possible.

- This ensures that the mortgagee (lender) is not prejudiced and that the buyer is protected.
- This provision clearly states that the existence of a mortgage does not bar subsequent transfers of the property.

3. Subsequent Transfer is Subject to the Existing Mortgage:

- While the mortgagor can transfer the property, the buyer must accept the property subject to the prior mortgage.
- This means the mortgagee's (lender's) rights remain unaffected, and the buyer cannot claim the property free from the mortgage.

Key Legal Principles Established:

1. Subsequent Transfer is Subject to the Existing Mortgage:

- A mortgaged property can be transferred (sold, gifted, or otherwise conveyed), but the transfer remains subject to the existing mortgage.
- This means the new owner does not get absolute ownership free from the mortgage unless it is cleared.

2. Section 57 of the Transfer of Property Act, 1882 – Provision for Encumbrances and Sale Freed Therefrom:

- This section allows for the sale of encumbered properties under a court order.
- Process:
 - If a property is subject to a mortgage or other encumbrance, it can still be sold.
 - The court has the power to order the property to be sold free from the encumbrance after providing notice to the encumbrancer (mortgagee/lender).

- The sale proceeds are then used to discharge the encumbrance before giving the remaining amount (if any) to the seller.
- This provision ensures that even properties with encumbrances can be legally transferred, ensuring fairness to both the buyer and the lender.
- A mortgaged property can still be transferred, but it remains subject to the mortgage.
- The court has the power to order the sale of encumbered properties and clear the encumbrance after due notice.
- Sub-Registrars cannot refuse registration simply because a property has a mortgage; however, the mortgagee's rights remain protected unless cleared through legal procedures.

This ensures that property transactions remain fluid while protecting the interests of both creditors and buyers.

Conclusion:

- A mortgage does not prevent further sale or transfer of the property.
- The Sub-Registrar cannot refuse registration merely because the property is mortgaged.
- The new owner takes the property subject to the existing mortgage, and any dispute must be handled under property and contract law.

This ensures that property transactions are not unnecessarily blocked due to the existence of a mortgage, while also protecting the rights of lenders and buyers.

THE POWER OF THE SUB-REGISTRAR TO REFUSE REGISTRATION OF DOCUMENTS DUE TO EXISTING MORTGAGES, PARTICULARLY IN LIGHT OF RULE 55-A OF THE TAMIL NADU REGISTRATION RULES, 2000.

1. Rule 55-A and its First Proviso:

- Rule 55-A was introduced in the Tamil Nadu Registration Rules, 2000, giving the Sub-Registrar authority to refuse registration of a property until the limitation period for redeeming the mortgage expires.
- This means that if a property is mortgaged, the Sub-Registrar could reject the registration of a sale or other transfer until the mortgage repayment period lapses.

2. Judicial Decision on Rule 55-A:

- The Madras High Court in *Federal Bank v. Sub-Registrar* (2023 2 CTC 289) ruled that the first proviso to Rule 55-A is ultra vires (beyond the powers) of the Registration Act.
- The reason is that this Rule contradicts the substantive provisions of the Transfer of Property Act, 1882, particularly Sections 48 and 56.
- Sections 48 & 56 of the Transfer of Property Act permit the transfer of mortgaged properties, subject to existing encumbrances.

3. The Rule Cannot Override the Substantive Law:

- Since mortgaged properties can legally be transferred under the Transfer of Property Act, the Registrar cannot refuse registration merely on the ground of an existing mortgage.
- A State Rule under the Registration Act cannot override the substantive provisions of a Central Act (Transfer of Property Act).
- The court declared that Rule 55-A lacks statutory backing and is invalid.

Conclusion:

- The Sub-Registrar cannot refuse registration of a document just because a mortgage exists.
- Rule 55-A, which imposed such restrictions, has been declared invalid by the Madras High Court.
- The Transfer of Property Act allows the transfer of mortgaged properties, subject to the mortgagee's rights.

- Any attempt to introduce a Rule contradicting settled legal principles without proper statutory authority is unsustainable in law.

This ruling ensures that property transactions are not unduly restricted and that the rights of property owners and buyers are upheld.

REFUSAL OF REGISTRATION DUE TO UNDERVALUATION

The issue discussed here pertains to the refusal by the Sub-Registrar to register a document on the ground that the property has been undervalued.

Key Legal Points:

1. Power of the Sub-Registrar in Case of Undervaluation:

- The Sub-Registrar does not have the authority to refuse registration solely on the ground that the property is undervalued.
- If the Sub-Registrar believes that the market value of the property is not correctly mentioned in the document, they must still accept the document for registration.

2. Procedure Under Section 47-A of the Indian Stamp Act, 1899:

- As per Section 47-A of the Stamp Act, when a document is undervalued, the Sub-Registrar must refer the matter to the Collector for determination of the correct market value and the proper stamp duty payable.
- The Sub-Registrar cannot unilaterally refuse to register the document based on undervaluation.

3. Judicial Precedent:

- The Madras High Court in *N. Ramayee v. Sub-Registrar* (2020 6 CTC 697) held that even in cases of undervaluation, the Sub-Registrar must register the document and then refer it to the Collector for valuation.
- Refusal of registration solely based on undervaluation is illegal.

Conclusion:

- The Sub-Registrar must register the document even if undervaluation is suspected.

- If the Sub-Registrar believes the value is not correctly stated, they must refer the matter to the Collector under Section 47-A of the Stamp Act.
- Refusal of registration on the ground of undervaluation is not legally valid.

This ruling ensures that property transactions are not arbitrarily obstructed and provides a fair mechanism for determining the correct market value without denying the right to register documents.

LEGAL POSITION ON REGISTRATION WHEN A LEASE EXISTS

The issue here is whether the Sub-Registrar can refuse registration on the ground that a lease exists on the property and that a "No Objection Certificate (NOC)" from the lessee is required.

Key Legal Points:

1. No Requirement for NOC from Lessee:

- The existence of a lease does not bar the owner (lessor) from transferring the property.
- The lessee's rights are protected under the lease agreement, but the transfer of ownership does not require the lessee's consent.

2. Judicial Precedent – *N. Ramayee v. Sub-Registrar* (2020 6 CTC 697):

- The Madras High Court Division Bench in this case has categorically ruled that:
 - An existing lease does not prevent the owner from executing a sale or transfer of the property.
 - The Sub-Registrar cannot demand a NOC from the lessee or refuse registration based on the existence of a lease.

3. Legal Protection of Lessee's Rights:

- If the property is sold or transferred, the lease rights remain valid as per the lease agreement.
- The new owner takes over the property subject to the existing lease.

- Section 109 of the Transfer of Property Act, 1882, states that a transfer of leased property does not affect the lessee's rights.

Conclusion:

- The Sub-Registrar cannot refuse registration just because a lease exists.
- A No Objection Certificate (NOC) from the lessee is not required for property transfer.
- The new owner is bound by the existing lease terms, but the transfer is legally valid.

Thus, any refusal of registration on this ground is unlawful and against settled legal principles.

CIRCULAR NO. 24011/C1/2020 AND THE REQUIREMENT OF NO OBJECTION FOR REGISTRATION

THE ISSUE HERE CONCERNS WHETHER THE SUB-REGISTRAR CAN REFUSE TO REGISTER
A DOCUMENT BASED ON

The issue here concerns whether the Sub-Registrar can refuse to register a document based on Circular No. 24011/C1/2020, which mandates obtaining a No Objection Certificate (NOC) from the lessee or mortgagee before registration.

Key Legal Findings:

1. The Circular is Contrary to the Law:

- The Madras High Court Division Bench in *N. Ramayee v. Sub-Registrar* (2020 6 CTC 697) has ruled that:
 - Requiring a NOC from the lessee or mortgagee before registration is illegal and against the substantive law.
 - The Registrar cannot refuse registration merely because a lease or mortgage exists.

2. Legal Standing of a Mortgage or Lease During Transfer:

- If a mortgaged property is sold, the transferee takes the property subject to the mortgage and has the right to redeem it under the Transfer of Property Act, 1882.
- Similarly, if a leased property is transferred, the lease continues to exist, but it does not prevent the transfer of ownership.
- Section 109 of the Transfer of Property Act, 1882, states that when a leased property is transferred, the new owner is bound by the lease terms, but a NOC from the lessee is not required.

3. Section 71 of the Registration Act Does Not Authorize Such Refusal:

- The Registration Act, 1908, does not empower the Sub-Registrar to refuse registration on these grounds.
- Section 71 allows refusal of registration only for specific reasons listed under the Act, not for reasons beyond its scope.
- The Circular exceeds the powers given under the Registration Act and is therefore legally unsustainable.

4. Violation of Constitutional Rights:

- Article 300A of the Indian Constitution guarantees that no person can be deprived of their property rights except by due process of law.
- Mandating a NOC for registration restricts property transactions and violates constitutional rights.
- If a property transfer is legally valid under the Transfer of Property Act, any administrative circular restricting such transfer is unconstitutional.

Conclusion:

- Circular No. 24011/C1/2020 is inconsistent with the law and cannot override statutory provisions.
- The Sub-Registrar cannot demand a NOC from a lessee or mortgagee before registering a property transaction.
- Any refusal of registration on this ground is unlawful and can be challenged in court.

LEGAL POSITION ON REFUSAL OF REGISTRATION OF COURT DECREES DUE TO TIME LIMIT UNDER SECTION 23 OF THE REGISTRATION ACT

whether the Sub-Registrar can refuse to register a court decree citing the time limit under Section 23 of the Registration Act, 1908.

Key Legal Findings:

1. Section 23 of the Registration Act and Its Applicability to Court Decrees:

- Section 23 states that documents must be presented for registration within four months from the date of execution.
- However, court decrees are not voluntary instruments; they are orders passed by judicial authority and do not have a fixed execution date like regular documents.

2. Judicial Precedent - Sathiyamoorthy v. Sub-Registrar (2023 4 CTC 287):

- The Madras High Court condemned the refusal of registration of court decrees based on Section 23.
- It ruled that court decrees are not bound by the time limit under Section 23 of the Registration Act.
- This decision led to the issuance of Circular No. Na.Ka. 34930/C1/2019 dated 27.2.2023, clarifying that court decrees do not have a time limit for registration.

3. Circular Na.Ka. 34930/C1/2019 Clarifies the Legal Position:

- This circular, issued in response to the Sathiyamoorthy case, explicitly states that the Sub-Registrar cannot refuse to register a court decree citing Section 23.
- Refusing registration of a court decree based on delay is illegal.

4. Court Decrees Must Be Registered Irrespective of Delay:

- A court decree, once passed, has legal validity and can be registered at any time.

- The Registrar has no discretionary power to reject it based on delay.

Conclusion:

- Court decrees are not subject to the time limit under Section 23 of the Registration Act.
- The Sub-Registrar cannot refuse registration of a court decree citing delay.
- The refusal of registration on this ground is illegal and can be challenged in court.

LEGAL POSITION ON REFUSAL OF REGISTRATION OF SALE CERTIFICATE UNDER SARFAESI ACT DUE TO EXISTING ATTACHMENT

Issue:

Whether the Sub-Registrar can refuse to register a sale certificate issued under the SARFAESI Act, 2002 on the ground that the property is under attachment by some department, such as the Commercial Taxes Department.

Key Legal Precedents and Principles:

1. Full Bench Judgment - Assistant Commissioner (CT) v. Indian Overseas Bank (2017 1 MLJ 769) (FB):

- The Full Bench of the Madras High Court held that when a property is sold under the SARFAESI Act, 2002, the auction purchaser gets the property free from all encumbrances (including government dues like commercial tax arrears).
- The reasoning is that the SARFAESI Act has an overriding effect over other laws.

2. Division Bench Decisions:

- Tamil Nadu Mercantile Bank Limited v. The Joint-I Sub Registrar Office, Madurai (2021 1 WLR 462) (DB)
- State Bank of India v. Sub-Registrar (2023 SCC Online Mad 3179) (DB)
- These cases reaffirmed that auction purchasers get clear title, and any pre-existing attachment by statutory authorities loses its significance.

3. Legal Effect of a Sale Certificate Issued Under SARFAESI Act:

- Once a sale certificate is issued under SARFAESI, the property is freed from all encumbrances, including tax dues or other attachments.
- The Sub-Registrar cannot refuse registration on the ground of an existing attachment.

Conclusion:

- Any refusal to register a sale certificate under SARFAESI citing an existing attachment is illegal.
- The Sub-Registrar is bound to register the sale certificate, as all previous encumbrances stand nullified upon auction.
- Auction purchasers acquire absolute rights over the property, free from all prior attachments or statutory claims.

This position is now well-settled in law through multiple Full Bench and Division Bench judgments of the Madras High Court.

LEGAL POSITION ON REFUSAL OF REGISTRATION DUE TO PENDENCY OF A SUIT

Can the Sub-Registrar refuse to register a document on the ground that a civil suit concerning the property is pending?

Key Legal Principles and Precedents:

1. **Transfer of Property During Pendency of Suit (Lis Pendens Doctrine - Section 52, Transfer of Property Act, 1882):**
 - A transfer made during a pending suit is not void but is subject to the outcome of the suit.
 - The doctrine of Lis Pendens under Section 52 of the Transfer of Property Act only means that the transferee takes the property subject to the court's final decision.
2. **Madras High Court - Division Bench in N. Ramayee's Case:**
 - Mere pendency of a suit does not bar registration of a transfer.

- The court held that even fraudulent transfers are not automatically void but merely voidable at the option of the creditor (under Section 53 of the Transfer of Property Act).
- If the transferee acts in good faith and for valid consideration, their rights are protected.

3. Impact on Sub-Registrar's Power to Refuse Registration:

- The Sub-Registrar has no authority to determine the legality or validity of a transfer based on a pending suit.
- The pendency of a case does not create an automatic bar on registration.
- The proper remedy for an aggrieved party is to approach the civil court, not the registration authority.

Conclusion:

- Refusal of registration solely on the ground of a pending suit is unlawful.
- Transfers made during pending litigation are not void but subject to the court's final ruling.
- Sub-Registrars cannot reject registration based on mere suit pendency, as it infringes the transferee's rights.
- The transferee's rights remain intact unless the court decides otherwise.