

The Limited Role of Sub-Registrars in Property Registration: Judicial Scrutiny under the Registration Act, 1908

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Abstract

The question of whether a Sub-Registrar has the authority to ascertain the title of a property before registering a document has been a recurring legal issue. In *K. Gopi v. The Sub-Registrar* (2025 INSC 462), the Supreme Court reaffirmed that the **Registering Officer's functions are administrative and not adjudicatory**. It struck down Rule 55A of the Tamil Nadu Registration Rules as ultra vires the Registration Act, 1908, which had empowered Sub-Registrars to refuse registration if the vendor failed to establish title. This paper examines the evolution of jurisprudence on this issue, analyzes the scope of powers of Sub-Registrars under the Registration Act, the limitations of their role, and evaluates the implications of the Supreme Court's observations for property registration in India.

Keywords: Sub-Registrar, Registration Act, Title verification, judicial interpretation, property transactions.

Introduction

The Registration Act, 1908, is **essentially a procedural enactment** intended to secure certainty, authenticity, and publicity in transactions relating to immovable property. The statute **does not confer the Registering Authority with any adjudicatory power** to pronounce upon disputes of ownership or title; its **mandate is confined to recording instruments voluntarily presented by parties in compliance with statutory formalities**. Notwithstanding this settled legislative scheme, several States, through executive or subordinate legislation, sought to enlarge the powers of Registering Officers by requiring them to verify or ascertain the vendor's title prior to registration. **Such attempts inevitably created a conflict between executive rule-making and the express contours of the parent statute as judicially interpreted.**

In *K. Gopi v. The Sub-Registrar* (2025 INSC 462), the Supreme Court unequivocally reaffirmed that the **Registering Officer's role is ministerial and circumscribed by the Act, confined strictly to ensuring procedural compliance.** **The Court categorically rejected the proposition that the Sub-Registrar could embark upon an inquiry into**

the substantive validity of title. This authoritative pronouncement aligns with earlier precedents of both the Supreme Court and several High Courts, which have consistently maintained that refusal to register on the ground of defective ownership or invalidity of title is ultra vires the statutory framework.

Analysis of Judicial Precedents—Doctrinal Rigour

The jurisprudential contours of the Registration Act, 1908, as elucidated by the Apex Court and various High Courts, are marked by a steadfast adherence to the maxim *stare decisis et non quieta movere*—the law stands by what has been decided and does not disturb settled matters. The Supreme Court in *Satya Pal Anand v. State of Madhya Pradesh* (AIR 2016 SC 4995), applying the doctrine of *stare decisis*, unequivocally declared that the functions of the Registering Officer are administrative in nature, thereby excluding any conferral of *quasi-judicial* authority. In *Park View Enterprises v. State of Tamil Nadu* (AIR 1990 Mad 251), the Madras High Court gave full effect to the maxim *audi alteram partem* by emphasizing procedural fairness but held, in consonance with the administrative character of the authority, that a Registrar is not vested with *iudicium*—the right to adjudicate disputes.

The Gujarat High Court, in *State of Gujarat v. Rajiv Maheshkumar Mehta* (2016), invoked the foundational maxim *nemo dat quod non habet*—no one can give what they do not have—holding that a Registrar, being devoid of adjudicatory powers, may not examine the legality of title. This principle is grounded in earlier authorities such as *Krishna Gopal Kataria v. State of Punjab* (AIR 1986 P&H 328) and *Bihar Deed Writers Association v. State of Bihar* (AIR 1989 Pat 144), which reinforce the statutory restrictions on registration officials.

E. Eshaque v. Sub-Registrar, Kozhikode (AIR 2002 Ker 128) further entrenched the principle that administrative authorities must act *intra vires*—within their powers—as the Kerala High Court denounced any attempt of registrars to go beyond their statutory remit by delving into matters such as title, possession, or encumbrance.

Any *ultra vires* (beyond powers) exercise, such as that struck down in *Pandurangan v. Sub-Registrar, Pondicherry* (AIR 2007 Mad 159), is *void ab initio*—invalid from the outset.

The Supreme Court’s decision in *State of Rajasthan v. Basant Nahata* (2005) 12 SCC 77) stands as a testament to *lex non cogit ad impossibilia*—the law does not

compel the impossible—where Section 22A of the Registration Amendment Act, 1976, was declared unconstitutional, reaffirming the *doctrine of separation of powers* and the administrative integrity of registration authorities.

Thus, it is evident that Indian courts have consistently applied the maxim *expressio unius est exclusio alterius*—the express mention of one thing excludes all others—limiting the registrar's function to what is expressly provided under the Act. This doctrinal approach upholds *certum est quod certum reddi potest*—that is, certain which can be made certain—ensuring predictability and legal certainty in matters of document registration within the statutory scheme of the Registration Act, 1908.

“Every day, numerous cases appear in the admission motion list challenging refusal slips issued by Sub-Registrars on one ground or another.”“Whenever parties produce judgments of this Court before the Sub-Registrars, the routine response is that such rulings apply only to the facts of those particular cases and cannot be relied upon. Parties are often directed to obtain fresh court orders in their individual cases. By disregarding the settled principles of law in this manner, refusal slips are issued as a matter of course, causing serious inconvenience to the parties and resulting in loss of revenue to the Government as well.”

“It is pertinent to note that the powers of the Sub-Registrar are governed exclusively by the provisions of the Registration Act, 1908. The role of the Sub-Registrar is purely ministerial and administrative in nature, limited to ensuring that the statutory formalities of registration—such as proper execution of documents, payment of stamp duty, verification of identity, and presentation of the instrument—are complied with.

Role of Sub-Registrar under the Registration Act 1908 and its Limitations

Statutory Role

Presentation of Documents (Sections 32–35): The Sub-Registrar verifies whether the executants appear before him, admit execution, and whether the document is presented by a competent person (either the executant, his representative, or an authorised agent).

2. Verification of Procedural Compliance: The officer ensures that the document is duly stamped as per the Indian Stamp Act, that the prescribed registration fees are paid, and that the document is within his territorial jurisdiction.

3. Authentication: Once procedural checks are satisfied, the Sub-Registrar endorses and records the document, thereby granting it public notice and evidentiary value.

Limitations

No power to adjudicate title: The Act nowhere empowers the Sub-Registrar to examine or decide whether the vendor has valid ownership or title.

No power to refuse on substantive grounds: The officer cannot reject registration merely because he suspects defects in ownership, possession, or validity of the transaction.

Bound by statute: Section 69 empowers State Governments to frame rules, but only in conformity with the Act. Rules enlarging Sub-Registrar's authority to check ownership (e.g., Tamil Nadu Rule 55A) are ultra vires.

Ministerial, not judicial: Courts have consistently held that the Sub-Registrar's role is administrative and cannot encroach upon the jurisdiction of civil courts which alone can decide disputes of ownership and title.

Circumstances under which the Registrar may refuse to register the document.

Rule 162 of the Registration Rules set out various circumstances under which the Registrar may refuse to register the document. When registration is refused, the reasons for refusal shall be at once recorded in Book 2. They will usually come under one or more of the heads mentioned below

Under Section 19 of the Registration Act, registration may not be effected (i) if the document is written in a language which the Registering Officer does not understand, which is not commonly used in the District, and which is not accompanied by a true translation and a true copy. (ii) Section 20 – unattested interlineations, blanks, erasures, or alterations requiring attestation; (iii) Sections 21 and 22 – insufficient property description or absence of copies of maps/plans; (iv) Rule 32 – execution date not stated or ascertainable; (v) Sections 23, 24, 25, 26, 72, 75, and 77 – late presentation; (vi) Sections 32, 33, 40, 43, and 34 – presentation by a person without right, or unsatisfactory appearance/identity/authority of executants, representatives, or agents; (vii) Section 35 – denial of execution, minority, lunacy, or incapacity of executants; (viii) Sections 41 and 35 – unproved death or delayed presentation in case of wills/authorities to adopt; (ix) Sections 25, 34, and 80 – non-

payment of fees or fines; (x) Section 230(A) of the Income Tax Act – non-production of prescribed certificates; and (xi) Section 10 of the Tamil Nadu Land Reforms Act – non-filing of mandatory declaration by the transferor. Registration outside these grounds, or refusal for reasons not recognized by law, is beyond the powers of the Sub-Registrar and is therefore ultra vires and illegal. The parties are entitled to have documents registered once all statutory formalities are satisfied.”

Lawful Grounds for Refusal of Registration

Document not duly stamped under the Indian Stamp Act.

Non-payment of registration fees.

Execution not admitted – if the executant denies execution or fails to appear.

Jurisdictional defect – where the property or parties are outside the territorial jurisdiction of the Sub-Registrar.

Document not presented by a competent person – e.g., presentation by an unauthorised agent.

Statutory prohibition – e.g., documents expressly barred under law or by court orders.

The Supreme Court in *K. Gopi v. Sub-Registrar* (2025 INSC 462, paras 15–16) clarified that refusal is limited only to non-compliance with procedural requirements, not on adjudication of ownership.

Legal Knowledge of Sub-Registrars

The Act does not require Sub-Registrars to have the legal expertise necessary to resolve disputes of title. This is deliberate, since the task of determining ownership often involves complex questions of fact and law, which only civil courts are empowered to adjudicate. The Courts have criticized the tendency of Sub-Registrars to assume powers beyond what the **Registration Act, 1908**, grants them.

Their duty is administrative, but in practice, some Sub-Registrars overstep by questioning or deciding ownership/title disputes. Courts have remarked against this.

Here are some notable decisions and observations

In *Satya Pal Anand v. State of MP* (AIR 2016 SC 4995), the Supreme Court observed that the Registrar 'is not expected to evaluate the title or irregularity in the document as such,' emphasizing that his function is limited to checking procedural

compliance.

In *Park View Enterprises v. State of Tamil Nadu* (AIR 1990 Mad 251), the Madras High Court clarified that the Registering Officer's function is 'purely administrative and not quasi-judicial,' underscoring that he does not possess the legal capacity to determine ownership.

In *E. Eshaque v. Sub-Registrar, Kozhikode* (AIR 2002 Ker 128), the Kerala High Court further stressed that no provision authorises the Sub-Registrar to require documents proving possession or ownership, precisely because he is not equipped to judge their sufficiency.

In *Rajni Tandon v. Dulal Ranjan Ghosh Dastidar* (2009) 14 SCC 782 – **Supreme Court stated that** *“The Sub-Registrar has no authority to go into the question of title. His duty is confined to examining the formalities required under the Act.”*

In **C. Ramesh v. Sub-Registrar (2019)**: The Madras High Court had criticised the Registrar for “arrogating to himself the role of a civil court by rejecting documents on alleged title defects.”

In **Francis v. Sub-Registrar (2015)**, the Kerala High Court held that refusal to register on the ground of disputed title amounted to “**exceeding jurisdiction.**”

Court Observation in K. Gopi v. The Sub-Registrar

The Supreme Court in *K. Gopi* case has clarified: the following

1. No power to ascertain title – The registering officer is not concerned with the ownership or title of the executant. Even if the executant has no title, the Sub-Registrar must register the document if the statutory requirements are satisfied.
2. Effect of registration – **Registration does not validate a defective title; it merely records the transaction. If the vendor has no rights, the registration cannot transfer any.** The “*registration of a document gives notice to the world of its execution, but does not confer unimpeachable validity*”. It reaffirmed that registration must follow when formalities are satisfied (parties, stamps, signatures), and title disputes must be resolved in courts.
3. Rule 55A declared ultra vires – Rule 55A of the Tamil Nadu Rules, which empowered refusal based on lack of ownership proof, was struck down as inconsistent with the Registration Act, 1908. This judgment reaffirms that the

registration process is ministerial, not adjudicatory and draws a firm boundary: registration does not mean that title is verified or implied.

Several High Courts and single-judge orders have set aside “check slips”/oral refusals and directed registration, and warned that arbitrary refusals invite contempt or departmental action. Examples on record include orders in *Mani v. Sub-Registrar* (order setting aside refusal; July 2024), *Subramani v. The Sub-Registrar* (Apr 26, 2024) where court warned refusal would invite contempt, and *Maheswary v. Sub-Registrar* (Jun 18, 2024) where the court criticized casual refusals.

Remedies against Refusal of Registration and Circumstances Permitting Refusal

“Where a Sub-Registrar refuses to register a document despite all statutory formalities being satisfied, several practical remedies are available to the aggrieved parties. The most immediate remedy is to file a writ petition (mandamus) in the High Court, directing the Sub-Registrar to register the document and quash the check-slip or refusal; courts frequently grant such relief where the documents comply with the provisions of the Registration Act (see *Satya Pal Anand v. State of Madhya Pradesh*, 2016 10 SCC 767; *K. Gopi v. The Sub-Registrar*, 2025 INSC 462) [Saji Koduvath Associates]. Parties may also submit a representation to the District Registrar or Inspector General of Registration demanding a reasoned order, which, if ignored, can be annexed to the writ petition; while courts expect administrative remedies to be attempted, undue delay in compliance is not condoned [Indian Kanoon]. In cases involving demands for money or intermediary extortion, a complaint can be lodged with the Vigilance, Anti-Corruption, or Police authorities, supported by recordings, receipts, or witness statements; media reports indicate that such complaints have led to arrests and corrective action [The Times of India].

Where the Sub-Registrar refuses compliance with an existing court order, contempt proceedings may be initiated to enforce registration [Indian Kanoon]. Additionally, administrative or departmental complaints can be filed with the Registrar General, and courts have directed disciplinary inquiries where misconduct has been proved [Indian Kanoon]. Finally, courts have awarded exemplary costs or compensation in writ petitions where delay and harassment are established, providing further protection and deterrence against arbitrary refusal [Indian Kanoon].

If a Sub-Registrar refuses registration, the aggrieved party can prefer an appeal to the Registrar of the District within thirty days of refusal. Where refusal is on the ground of denial of execution, an application may be filed before the Registrar, who will conduct an inquiry and may direct registration. Independently of the statutory appeal, parties can also approach the civil court seeking a declaration of rights or mandatory injunction to compel registration. Writ Jurisdiction under Article 226 of the Constitution: Since refusal to register beyond the scope of statutory powers is an act of jurisdictional overreach.

High Courts have entertained writ petitions challenging such refusal. In *K. Gopi v. Sub-Registrar* (2025 INSC 462), the Supreme Court reaffirmed that demanding proof of title is ultra vires, and Rule 55A (Tamil Nadu) which allowed such demands was struck down.

Can Sub-Registrars Demand Patta, Chitta, or Original Deeds?

The statutory framework does not authorise Sub-Registrars to demand production of revenue records like Patta, Chitta, Adangal, or earlier title deeds/encumbrance certificates as a pre-condition for registration. Such demands are beyond the scope of the Act and amount to usurpation of judicial powers.

The Kerala High Court in *E. Eshaque v. Sub-Registrar, Kozhikode* (AIR 2002 Ker 128) categorically held that requiring possession or ownership certificates is not justified. Similarly, the Supreme Court in *Satya Pal Anand v. State of MP* (AIR 2016 SC 4995) observed that the Registrar cannot look beyond statutory compliance.

Conclusion

The Supreme Court's decision in *K. Gopi v. The Sub-Registrar* is a landmark reaffirmation of the limited scope of powers vested in Sub-Registrars. By striking down Rule 55A of the Tamil Nadu Registration Rules, the Court has ensured that the registration machinery remains an administrative process rather than a quasi-judicial one. This preserves the integrity of the Registration Act, 1908, and prevents executive overreach.

For practitioners and citizens alike, the ruling offers clarity: ***registration is not a guarantee of title, but merely a statutory acknowledgement of a transaction.***

Ownership disputes must be adjudicated separately before competent civil courts.

References

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