



**W.P(MD)No.12590 of 2015**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 06.07.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.12590 of 2015**

Rev.S.Prince  
Church of South India  
9/17, Vilvamarathupatti Street,  
Pudur,  
Villathikulam Taluk,  
Tuticorin-628905

... Petitioner

**Vs.**

- 1.The Registrar General (Registration)  
Registration Office,  
No.100, Santhome High Road,  
Chennai-28.
- 2.The Sub Registrar,  
Sub Registrar Office,  
Pudur, Tuticorin District.
- 3.Kaleeswari
- 4.David Selvin Raj
- 5.The Executive Officer, Pudur,  
Selection Grade Town Panchayat,  
Tuticorin.  
(R5 is suo motu impleaded vide  
order dated 13.10.2022)



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6.Thenmozhi

7.Guru Krishnan

8.The District Registrar,  
Thoothukudi District.  
(This Court impleaded the respondents  
6 to 8 in W.M.P.(MD)No.20460 of 202  
vide order dated 06.07.2023)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 & 2 to consider the representation given by the petitioner dated 01.06.2015 and cancel the fraudulently registered documents bearing No.251/2013, 252/2013.

For Petitioner : Mr.M.Gnanangurunathan

For Respondents : Mr.SRA.Ramachandran  
Additional Government Pleader  
for R1,R2,R5 & R8  
: Mr.Arun Swaminathan  
for M/s.Chettinad Legal Solution for R3  
: Mr.Udhayakumar for R4

## ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the official respondents and the learned counsel appearing for the respondents 3 & 4.



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2. The case of the petitioner is that the petition mentioned sale deed has been fraudulently registered and that it should be cancelled. The learned counsel appearing for the petitioner took me through the averments set out in the affidavit filed in support of the writ petition and also the materials enclosed in the typed set of papers. He argues that the third respondent herein namely Kaleeswari traces her title to the sale deed dated 24.12.1999 executed by one Sundaraj (Document No. 39/2000). This document was cancelled by Thiru.Sundaraj on 14.12.2001 itself. The petitioner's counsel points out that it was not an unilateral cancellation but one was done with the consent of Kaleeswari. Subsequently, Kaleeswari sold a portion of the property in favour of the fourth respondent on 09.04.2013. She made further alienations in favour of R6 & R7 subsequently. The contention of the petitioner's counsel is that when her title deed itself was cancelled, the third respondent could not have executed the sale deed in favour of the fourth respondent in the year 2013. Since the registration is apparently fraudulent, he wants the registering authority to cancel the same. The contentions of the learned counsel appearing for the petitioner are quite persuasive. He would also



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point out that O.S.No.35/2015 filed by the contesting respondent on the file of the Sub Court, Kovilpatti was dismissed for default on 01.11.2016.

3. What comes in the way of granting relief to the petitioner are the following two aspects:-

(I) During the relevant time, the registering authority did not have the power to cancel the registration.

(II) Of-course, Section 77(A) of the Act has now been introduced in the statute book. I have however taken the view that this provision is not retrospective.

4. The Writ Petition itself was filed in the year 2015. During the relevant time, the registering authority lacked the power to cancel. The petitioner has no locus standi to maintain the writ petition. It is Sundaraj who alone could have felt aggrieved. The writ petitioner has no title over the property covered by the document in question. The petitioner's counsel states that the contesting private respondents are causing obstruction in the pathway and that is why, the petitioner has filed the writ petition. If a public pathway has been obstructed, the petitioner has



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to go before the local body for removal of the encroachment. In the alternative, the jurisdictional civil Court can look into the issue. The petitioner has no locus standi to demand cancellation of the petition mentioned document. Granting liberty to the petitioner to work out his remedy in the manner known to law, the Writ Petition is dismissed. No costs.

**06.07.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
rmi

To

- 1.The Registrar General (Registration)  
Registration Office,  
No.100, Santhome High Road,  
Chennai-28.
- 2.The Sub Registrar,  
Sub Registrar Office,  
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**G.R.SWAMINATHAN, J.**

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