



WEB COPY



WP.No.22267 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 05.08.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

WP.No.22267 of 2024  
and  
WMP.No.24260 of 2024

Selvi

... Petitioner

Vs.

1. The Superintendent of Police,  
Kallakurichi.
2. The Inspector of Police,  
Chinnasalem Police Station,  
Kallakurichi District.
3. The Sub-Inspector of Police,  
Kilkuppam Police Station,  
Kallakurichi District.
4. The Tahsildar,  
Chinnasalem Taluk,  
Kallakurichi District.

5. S.Periyasamy

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondents 1 and 2 to consider petitioner's representation dated 16.07.2024 consequently direct the respondents 1 to 2 to provide police protection to the petitioner



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live and petitioner's property bearing S.Nos.117, 6, 7, 8, 9, 10 in Kural Village, Kallakurichi Village.

For Petitioner : Mr.S.N.Subramani

For Respondents : Mr.K.M.D.Muhilan,  
Government Advocate (Crl.Side)  
for R1 to R4

### **ORDER**

This writ petition is filed seeking police protection regarding the land in S.No.117/2, 6,7,8,9, 10 in Kural Village, Kallakurichi Taluk.

2. According to the petitioner, the land in dispute was assigned to her and her husband in the year 1995. Thereafter, the dispute arose regarding the alleged nilaviyal pathai (pathway) in which a suit in O.S.Nos.807 of 2006 and O.S.No.185 of 2012 filed and decree passed partially granting permanent injunction. The prayer for cancellation of patta was dismissed contending that when there is an injunction restraining the revenue authorities from interfering with the possession and no appeal filed against the decree of injunction, the respondents cannot forcibly take away the property and destroy the standing crop and hence, she seeks for protection.



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3. The learned Government Advocate (Crl.Side) submits that the land assigned to the petitioner and her husband Meyyalagan was subject matter of writ appeal in W.A.No.3535 of 2023, wherein, a Division Bench of this Court vide order dated 20.12.2023 had considered the facts and the plea of the appellants and disposed of the writ appeal stating that after order passed in writ petition in W.P.No.3410 of 2022 dated 09.08.2023, the District Revenue Officer has passed order, challenging the cancellation of patta and if the appellants are aggrieved the said cancellation of patta is open for them to challenge the said order in the manner known to law. The revenue authorities issued notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and proceeding further pursuant to the notice.

4. The learned counsel for the petitioner submits that the petitioner has preferred an appeal before the District Collector and the same is pending. Further, against the order of District Revenue Officer , cancelling the patta, writ petition is pending. Hence seeks interference of this Court to restrain the Revenue Authorities from laying pathway in the land.



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5. The learned Government Advocate (Crl.Side) submits that if the revenue records reveals that Nilaviyal Pathai (pathway) is in existence even if it is a patta land and the same can be considered as encroachment and action under Land Encroachment Act 1905 can be initiated. The writ petition filed challenging the cancellation of patta will have no bearing and it can at the most save the remaining land assigned to the petitioner herein and not the land which is shown as nilaviyal pathai as per the revenue record.

6. Regarding the appeal before the District Collector challenging the Section 7 Notice, the learned Government Advocate( Crl.Side) submits that the pendency of appeal without any interim order cannot enure right to the petitioner herein to seek police protection.

7. Recording the said submissions, petition seeking police protection stands dismissed. No order as to costs. Consequently, the connected miscellaneous petition is closed.

**05.08.2024**

Vv



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**Dr.G.JAYACHANDRAN,J.**

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