

**IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.****Present : Thiru. M.P. Ramkishore, B.E., BL., (Hon's)**

District Munsif, Vadipatti

Dated this the 14th day of July 2026**O.S. No.37 /2021****CNR No.TNMD190000552021**

1. G. Parvathi,
W/o. Ganesan
2. S. Murugan,
S/o. Seeni

---- Plaintiffs

//Versus//

1. P. Pitchaimani,
S/o. Palpandi

---- Defendant

This suit was filed before this Court on 18.03.2021 coming before me for final hearing on 14.07.2026 Advocate Thiru. B. Govindavasagam appeared for the Plaintiffs. Advocate Thiru. Gokulnath appeared for the Defendant, on 11.08.2025 the case was posted for cross of Pw.1 and 2, due to non appearance, the defendant set ex-parte. Upon hearing the arguments advanced by the counsel for the plaintiffs and upon perusing the available material records, today this Court has delivered the following....

JUDGMENT

1. The suit filed for declaration and consequential mandatory and permanent injunctions and for the costs.



2. Gist of Plaintiff averments:

The brief facts of the case was that the plaintiffs were the owners of the house building in survey no's. 219/33 and 219/36. The defendant was a adjacent land owner. There was a common wall standing between the plaintiffs property and defendants property. Regarding the common wall, the second plaintiff entered into an agreement with the defendant on 14.12.2003. Under the said agreement, the second plaintiff and the defendant mutually acknowledged and accepted its terms and conditions and affixed their signatures in token of their consent. Being so, the defendant, without the consent of the plaintiffs, unlawfully started construction over the common wall and made disturbance to the plaintiffs peaceful possession in the suit property. Thus the plaintiffs filed this suit, to declare the wall standing between the plaintiffs and the defendant's property as a common wall and to grant mandatory injunction to direct the defendant to remove the construction made over the common wall and also to grant permanent injunction against the defendant restraining the respondent and their men in any manner, from disturbing the plaintiff's peaceful possession and enjoyment in the disputed common wall and for the costs.

3. The defendant though appeared and filed written statement, later set ex-parte due to his non appearance.

4. The plaintiffs to prove their case had examined Pw.1 and Pw.2. Further marked Ex.A.1 to 9; Among the documents Ex.A.1 was the Patta No.579, Ex.A.2 was the Patta No.790, Ex.A.3 was the House tax receipts in the name of 1st plaintiff, Ex.A.4 was the House tax receipts in the name 2nd plaintiff, Ex.A.5 was the Agreement dated 14.10.2003, Ex.A.6 was the Aadhar Card of 1st plaintiff, Ex.A.7 was the Aadhar Card



of 2nd plaintiff, Ex.A.8 was the Photograph, Ex.A.9 was the Notice of the surveyor dated 03.02.2021

5. Points for determination:

i. Whether the plaintiff is entitled to declare the wall mentioned in suit schedule as common wall of the plaintiffs and the defendant? and

ii. Whether the plaintiff is entitled to consequential relief of mandatory injunction to direct the defendant to remove the construction made over the common wall?

i. Heard the counsel for plaintiffs, records perused. The plaintiffs had sought to declare the wall mentioned in the suit schedule as common wall and to direct the defendant to remove the encroachment made over the common wall. The defendant was set ex-parte.

ii. The learned plaintiffs counsel had argued that the properties in survey no. 219/33 and 219/36 belong to them and they have built a house in their respective properties. The defendant was a neighboring property owner of the plaintiffs. The plaintiffs and the defendant had a common wall between their properties. At present the defendant by claiming the exclusive right in the common wall, made construction over the common wall. The plaintiffs had proved their case by letting in proper evidence, hence the suit may be decreed.

iii. Since the plaintiff sought for declaratory relief the burden of proof is on the plaintiff to prove the wall mentioned in the suit schedule was a common wall, which is belong to the plaintiffs as well as the defendant.



iv. To prove the plaintiff claim the plaintiff had examined Pw.1 and 2. The plaintiff had also marked Ex.A.1 to 9. Among the plaintiffs documents,

- Ex.A.1 – Patta No.579 – shows that the patta for the property in the new survey no.219/33, old survey no.145/29 pa was in the name of the 1st plaintiff.
- Ex.A.2 – Patta No.790 - shows that the patta for the property in new survey no.219/36, old survey no.145/29 pa was in the name of the 2nd plaintiff.
- Ex.A.3 and 4 – The house tax receipts shows that tax for door No. 6-1-81 was paid by the 1st plaintiff, while tax for door No. 6-1-93A1 was paid in the name of the 2nd plaintiff. However, the door number attributed to the 2nd plaintiff was mentioned in plaint as 61/83 and thus Ex.A.4 was inconsistent with the description in the plaint pleadings but no explanation was stated in the plaint pleadings regarding this difference in door number.
- Ex.A.5 – The agreement dated 14.10.2003 relied upon by the 2nd plaintiff state that the 2nd plaintiff and the defendant agreed to treat a wall as a common wall between their respective properties. However, the said agreement does not describe the survey numbers of the properties or identify the location of the wall, such as its boundaries, measurements or reference to any specific property details. In the absence of such particulars, the subject matter of the agreement remains uncertain, rendering it difficult to relate the agreement to the suit property.
- Ex.A.6 and A.7 – Aadhar cards of the plaintiffs.
- Ex.A.8 – Photograph of the suit wall.
- Ex.A.9 – Notice dated 03.02.2021 shows that it was issued by Tahsildar, Vadipatti, to the defendant and 3 others for surveying the property in survey no. 219/36. In this document an endorsement was made by the surveyor as the property in survey no.219/36 belong to the 2nd plaintiff, the property in survey no.219/33 belong to the 1st plaintiff and the defendants property had a common



wall. Even in this document the survey number of defendant's property was not mentioned and the location of the wall was not at all disclosed.

v. From careful appreciation of entire materials placed on record, this court can find that, the plaintiffs claims that the plaintiffs owned two properties in survey no's. 219/33 and 219/36. Also a common wall exists between the plaintiffs properties and the defendant's property. The plaintiff had filed Ex.A.1 and 2 patta to prove the title and description of the suit property. The Ex.A.1 and 2 patta's have the FMB of the property. Accordingly, by the FMB in Ex.A.1 patta, the survey no. 219/33 was bounded by survey no's;

- 219/23, 219/24, 219/25 on the north,
- 219/32, 220 on the west,
- 219/34 on the east and
- 220 on the south.

Further according to the FMB in the Ex.A.2 patta, the survey no. 219/36 was bounded by survey No's.

- 219/27, 219/28 on the north,
- 219/35 on the west,
- 219/37 on the east and
- 220 on the south.

vi. From the above findings though the plaintiffs claim their properties in survey no. 219/33 and 219/36 shares a common wall with the defendant's property but the properties of the plaintiffs were not adjoint properties as found in the FMB of Ex.A.1 and 2. Also the survey number of the defendant's property was not disclosed in the plaint. Even the direction of the defendant's property was not brought out before this court to identify the location of the wall in dispute. In such circumstance, as this court



cannot find the plaintiffs properties and defendants property as adjacent property, this court cannot decide that a common wall exists as pleaded by the plaintiffs.

vii. The plaintiffs filed Ex.A5 - agreement and Ex.A.9 - surveyor endorsement to prove the existence of common wall. But in both the above documents the survey number of the location of the wall was not mentioned. Not even the four boundaries of such wall was mentioned to identify the wall in dispute. Thus without proper identification of the suit property the plaintiffs cannot claim the relief of declaration that the wall in dispute was a common wall.

viii. As discussed above as the plaintiff failed to get substantial relief of declaration, since the suit property common wall was not properly identified, thereby the plaintiff could not get the relief of mandatory injunction and permanent injunction without properly identifying the suit property.

ix. The above issues are answered against the plaintiffs.

6. **In the result**, the suit is dismissed, with costs.

Judgment directly dictated to the Stenographer and computerized error checked and Pronounced by me in open court this the *14th day of July 2026*.

District Munsif,
Vadipatti.

1. Plaintiffs side witness :

Pw.1 – Murugan

Pw.2 – Sumathi



2. Plaintiffs side documents :

Ex.A.1	Patta No.579	Original
Ex.A.2	Patta No.790	Original
Ex.A.3	House tax receipts in the name of 1 st plaintiff	Original
Ex.A.4	House tax receipts in the name of 2 nd plaintiff	Original
Ex.A.5	Agreement dated 14.10.2003	Original
Ex.A.6	Aadhar Card of 1 st plaintiff	Copy compared with original
Ex.A.7	Aadhar Card of 2 nd plaintiff	Copy compared with Original
Ex.A.8	Photographs	---
Ex.A.9	Notice of the surveyor dated 03.02.2021	Office Copy
Ex.A.10	Aadhar Card of Sumathi	Copy compared with Original

4. Defendant side witness and documents: Nil

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DISTRICT MUNSIF COURT
Vadipatti
FAIR JUDGMENT
O.S. No.37/2021
Date : 14.07.2026