



**IN THE COURT OF THE DISTRICT MUNSIF OF UDHAGAMANDALAM,
THE NILGIRIS**

Present: **Thiru. L. PRAKASH, B.Sc., B.L.,**
DISTRICT MUNSIF, UDHAGAMANDALAM.

Friday, the 19th day of June 2026

O.S. No. 14 of 2016
(C.N.R. No. TNNS030 - 00027 - 2016)

Mary

... Plaintiff

/Vs/

Shanthi

... Defendant

This suit came on 16.06.2026 for final hearing before me in the presence of Mr. K. Vijayan, learned Counsel for the Plaintiff and of Mr. R. Sukumaran, learned Counsel appearing for the Defendant, upon hearing both side arguments, and upon having stood over till this day for consideration, and this court delivered the following:

JUDGMENT

1. This suit is filed by the plaintiff for the relief of permanent injunction restraining the defendant, his heirs, legal representatives, or anyone claiming right under him, from interfering with the plaintiff's peaceful possession and enjoyment of the suit property and to award cost of the suit.

**Gist of Plaintiff:**

2. The plaintiff states that, she is the absolute owner of the suit property, acquired through House site assignment scheme under the Proceedings of Tahsildar, Udhagamandalam . The plaintiff further states that she constructed a house with brick walls and a cement/tile roof, allotted to her by the Government and resides there on the ground floor with her family members. The plaintiff and the defendant are neighbours, however, about 5 years ago, when the defendant build their house, allegedly encroached upon the plaintiff's property by approximately 5 feet. Despite the defendant's house having its own entrance, this construction has caused a disturbance to their peaceful occupation and movement to the plaintiff and a dispute over an area measuring 5 feet in breadth and 16-1/2 feet in length in the front yard portion of the plaintiff. The defendant allegedly created a new doorway facing the plaintiff's courtyard to intentionally cause a nuisance. The plaintiff claims this prevents them from performing daily activities they have done for a long time, such as washing clothes, washing utensils, heating water for bathing, etc.,

3. The plaintiff further claims ownership of a specific courtyard measuring 5 feet in breadth and 16-1/2 feet in length, which was legally granted to her by the Tahsildar, Udhagamandalam. The defendant is attempting to demolish a small handrail/boundary wall built by the plaintiff, and the defendant has reportedly installed a drainage pipe from their own house that exists onto the plaintiff's property. The defendant allegedly intends to dig a sewage pit in the plaintiff's courtyard to connect this pipe, which the plaintiff argues is a direct violation of their legal property rights and poses a threat to their peaceful possession of the land. On 22.01.2016, the defendant reportedly arrived with their spouse and others, used abusive language, threatened the plaintiff, and insisted they would continue with the construction/encroachment.



4. When the plaintiff complained to the Police, they refused to take action and supporting to the defendant. The plaintiff further claims that the defendant is interfering with her legal right to access and enjoy her property, and has allegedly blocked the pathway. The plaintiff has legal right to use the space and that the defendant's actions, such as blocking the front or back entrances are unlawful and affect her legal rights. Hence the plaintiff constrained to file the suit seeking a permanent injunction against the defendant to prevent them from interfering with the use of her property and pathway.

Gist of Written Statement:

5. The defendant in her written statement denied the plaint averments and contended that the suit is false and not maintainable. She denies that the suit schedule property belongs to the plaintiff under the proceedings of the Tahsildar Ootacamund, and she claims the plaintiff given the relevant documents as security for a loan, and challenges the plaintiff to prove ownership. The defendant asserts that the plaintiff has lived in her house with her family for several years, the defendant demands the plaintiff to produce the original patta and prove the specific extent of construction authorized by the Government. The defendant refutes the allegation that she encroached on five feet of the plaintiff's land five years ago, the defendant states that she was granted a patta for Plot No. 35 (S. No. J/13/22) and constructed her building with Mangalore tiles 12 years ago, supported by Property Tax payments to Ootacamund Municipality (Asst. No. 46354) and there is no need to encroach the plaintiff's upstairs portion.

6. The defendant further states that, the plaintiff admitted in the plaint that she is the silent spectator and the building alleged to have been constructed by the defendant 5 years ago and using the existing right of way. Even if an encroachment



occurred 5 years ago, the plaintiff remained a Silent Spectator, therefore the claim for possession for the alleged encroachment is barred by limitation. The defendant claims a right of way through the plaintiff's property based on Easement of prescription and Easement of necessity. The defendant denies blocking a rear pathway, and using the plaintiff's front portion for the past 5 years, asserting that no such pathway exists, in fact there is a public drainage running in the rear side of the defendant's building. The defendant further states that she has only access to free ingress and egress over the existing right of way to go to her property. She denies the plaintiff's claims regarding an illegal toilet and drainage pipe, stating that the Ootacamund Municipality officially sanctioned and installed the toilet.

7. The defendant further characterizes the plaintiff's actions, such as boiling water in a shared courtyard and filing police reports, as attempts to create trouble and prevent government officials from performing their duties. The defendant demands that the plaintiff provide strict proof for all allegations and accuses the plaintiff of not being a law-abiding citizen. The defendant reiterates her entitlement to an easement of prescription and necessity, nothing that the plaintiff admitted the defendant has used the existing right of way for over 5 years. The plaintiff has claimed non-existing relief of seeking injunction against the defendant from using right of way is unknown to eyes of law. The plaintiff has no valid cause of action and that the suit was filed solely to harass the defendant. The suit for a bare injunction is argued to be not maintainable because the plaintiff did not first seek a declaratory relief.

8. The defendant further argues the suit is bad for non-joinder of necessary parties, as the Government of Tamilnadu was not impleaded as a party in the suit. The defendant alleges that on 04.01.2015, the plaintiff and rowdy elements brutally attacked the defendant, leading to hospitalizations at Nirmala Hospital and Govt.



Hospital, Ootacamund. The plaintiff is not entitled to seek any relief in the suit considering the above circumstances and as such the suit is liable to be dismissed with the compensatory cost as provided under the Section 34 A of Civil Procedure Code.

Issues framed:

9. On consideration of the pleadings of both sides this court framed the following issues

- (i) *Whether the plaintiff is in possession and enjoyment of the suit property?*
- (ii) *Whether the plaintiff is entitled to obtained relief of permanent injunction as prayed for?*
- (iii) *What other relief entitled?*

Plaintiff's side evidence:

10. On the side of the plaintiff, the plaintiff, **Mrs. Mary** examined herself as **Pw-1**, through her **Ex. A-1 and Ex. A-2** were marked. The Pw-1 was cross examined by the defendant's side in full. The evidence of the plaintiff's side is closed with Pw-1.

Defendant's side evidence:

11. On the side of the defendant, the defendant **Mrs. Shanthi**, examined herself as **Dw-1**, through her **Ex. B-1 to Ex. B-6** were marked. Further on the defendant's side, one witness, namely, **Mr. Arunraj, V.A.O. Udhagamandalam Town** examined as **Dw-2**, through him **Ex. B-7** was marked, another witness namely, **Mr. Mahendra Kumar** (on behalf of the Commissioner Udhagamandalam Municipality) examined as **Dw-3**, through him **Ex. B-8 and Ex. B-9** were marked.



The Dw-1 to Dw-3 were cross examined by the plaintiff's side in full. The evidence of the defendant's side is closed with Dw-3.

Court witness:

12. On the petition filed by the defendant's side, one witness namely, **Mr. R. Rajendran**, (Zonal Deputy Inspector, Gudalur) examined as **Cw-1**, through him, **Ex. C-1** was marked. The Cw-1 was cross examined by the plaintiff's side in full. Further, on the memo filed by the defendant's side, the Advocate Commissioner's Report along with 13 annexure were marked as **Ex. C-2 series**. Thereafter the case posted for both side arguments.

Arguments on the Plaintiff's Side:

13. The learned counsel for the plaintiff submitted that the plaintiff is the absolute owner of the suit property and that she was granted a house-site patta by the Government, which has been marked as Ex. A-1. According to him, the plaintiff has been in continuous enjoyment and possession of the suit property, and the same has been evidenced by Ex. A-2, namely, the property tax receipt dated 19.01.2016. He further contended that the defendant, who is a neighbouring owner, constructed her house by encroaching upon a portion of the plaintiff's land. At that point of time, the plaintiff did not object to such construction, as it did not obstruct her access to the house. However, subsequently, the defendant began interfering with the plaintiff's peaceful enjoyment of her property. For that purpose, the defendant closed the front portion of her own house and created a door adjacent to the plaintiff's front entrance.



14. The learned counsel further submitted that, from the date of construction of her house, the plaintiff had been using the front yard portion for washing and drying clothes, cleaning vessels, and heating water in a stove. The said front yard, measuring 5 feet in breadth and 16½ feet in length, forms part of the house site allotted to the plaintiff by the Government, and therefore the plaintiff has a lawful right to possess and enjoy the same as her own property. It was further argued that the defendant attempted to demolish the handrail wall constructed by the plaintiff on the left side of her house. The defendant also attempted to construct a toilet in her house and dig a drainage tank in the plaintiff's front yard, with an intention to lay the toilet pipeline through the said portion. If such acts are permitted, the drainage tank already constructed by the plaintiff in that area would be affected, thereby interfering with the plaintiff's lawful possession and enjoyment of the suit property.

15. It was further submitted that, under such circumstances, on 22.01.2016, the defendant disturbed the plaintiff's possession by preventing her from carrying out any work in the front yard thereafter, compelled her to demolish the handrail wall, scolded her, and attempted to assault her. Consequently, the plaintiff approached the police seeking protection. However, according to the learned counsel, the police failed to heed the plaintiff's complaint, acted in favour of the defendant, and even threatened the plaintiff. Hence, the plaintiff was constrained to institute the present suit seeking the relief of permanent injunction.

16. The learned counsel further argued that, in her cross-examination, the defendant admitted that there are two ways of access to her house, whereas the plaintiff has only one entrance to her house. The defendant also admitted that there are four access routes leading to her house from Ooty town. Further, though the defendant admitted that, on the other side entrance of her house, the door number has been written, a calling bell has been fixed, and the name of the house has been displayed,



she nevertheless contended that the door situated near the alleged front yard of the plaintiff is the front entrance of her house.

17. According to the learned counsel, the aforesaid admissions clearly establish that the entrance bearing the door number, house name, and calling bell is the actual front entrance of the defendant's house. He submitted that it is common practice for the door number, house name, and calling bell to be displayed only at the front entrance of a house. He further argued that no person would ordinarily construct a toilet in the front portion of a house, as toilets are usually constructed in the backyard, commonly referred to as "pulakkadai". However, the defendant admitted that a toilet exists on the side facing the plaintiff's front yard and, at the same time, claimed that the said side constitutes the front entrance of her house. According to the learned counsel, such a stand itself reflects the attitude of the defendant.

18. He further contended that the Advocate Commissioner, in her report, specifically stated that the defendant and the learned counsel appearing for the defendant threatened her during the inspection of the suit property. It was also pointed out that, in the objections filed to the Commissioner's report, the defendant made several allegations against the Advocate Commissioner. The learned counsel further submitted that the official witnesses examined in the case gave contradictory evidence. One of the official witnesses admitted in his evidence that he had visited and met the defendant prior to appearing before the Court to depose, without any notice to the plaintiff. It was argued that, while the plaintiff had established through her pleadings and evidence that the disputed portion is her exclusive pathway, the official witnesses gave varying versions regarding its measurement, one stating it to be 6 feet in width and another stating it to be 5 feet in width. Therefore, according to the learned counsel, the evidence of the official witnesses is contradictory and unreliable.



19. The learned counsel also submitted that the defendant herself gave contradictory evidence regarding the period of her alleged use of the property. At one stage, she stated that she had been using the property for 13 years; thereafter, she stated that she had been using it for 20 years; and subsequently, she claimed to have been using it for 42 years. According to the learned counsel, such inconsistent statements render the evidence of the defendant unreliable and unacceptable.

20. Therefore, it was argued that the plaintiff has successfully established her lawful possession over the suit property as well as the interference and disturbance caused by the defendant. Hence, the plaintiff is entitled to the relief of permanent injunction as prayed for, and the suit is liable to be decreed with compensatory costs.

Arguments on the defendant's side:

21. Per contra, the learned counsel for the defendant submitted that the case of the plaintiff is false and frivolous. He contended that the suit has been filed claiming rights over 2 cents of property, whereas, as per Ex. A-1, the house-site patta issued in favour of the plaintiff, she is entitled only to 20 square metres of land, which comes to approximately 215 square feet. On the other hand, the defendant was allotted 240 square feet of land. According to him, Ex. A-1 does not grant 2 cents of land to the plaintiff. He further submitted that, as per Ex. C-1, namely, the Commissioner's report and the sketch prepared by the Government Surveyor, the plaintiff is in possession of only 215 square feet of land on the ground. Both the plaintiff and the defendant have constructed their respective houses within the extent of land allotted to them under the house-site pattas issued by the Government.

22. The learned counsel further argued that the right of way commences from the front portion of both houses. According to the Commissioner's report and plan, the said right of way originally measured 6 feet in width. Subsequently, the



plaintiff encroached upon 1 foot of the said pathway by raising a construction over Government land, and therefore, as on the date of inspection, only a 5 feet wide right of way exists. It was contended that the said 5 feet pathway belongs neither to the plaintiff nor to the defendant, but exclusively to the Udhagamandalam Municipality. However, the plaintiff, without any legal right, has laid claim to the same as her own property.

23. The learned counsel further submitted that, as per the Commissioner's report and the evidence of Cw-1, the Surveyor, a common pathway measuring 5 feet in width exists between the parties. He stated that the defendant had constructed a toilet within her own property under the Swachh Bharat Scheme, but the plaintiff prevented the defendant from laying the pipeline through the common right of way area. According to him, the same was admitted by Cw-1 in his evidence. He also pointed out that, in Clause (2) of the Surveyor's report, it has been specifically stated that the portion of land situated in front of the plaintiff's house and the defendant's house belongs to the Udhagamandalam Municipality.

24. It was further argued that there exists a sewage channel measuring 4½ feet in width behind the defendant's house and, therefore, the defendant cannot conveniently use that side as an access to her house, as the said portion also belongs to the Municipality. The defendant has been using that side only as a temporary access by placing slab stones over the sewage channel. The learned counsel pointed out that the Advocate Commissioner, in her report, clearly observed that the temporary access through the said 4½ feet sewage channel is unsafe and very narrow.

25. The learned counsel further submitted that the toilet constructed under the Swachh Bharat Scheme could not be completed due to the obstruction caused by the plaintiff and, consequently, the defendant has been unable to use the said toilet. According to him, the evidence of Dw-1, Dw-2, and the Commissioner's report



collectively establish that the disputed portion is a common right of way measuring 5 feet in width and belonging to the Municipality. He contended that the plaintiff has attempted to encroach upon Government land under the guise of the patta issued to her. Though the patta confers rights only over 215 square feet of land, the plaintiff has laid a claim over an extent of 2 cents.

26. The learned counsel further argued that the defendant has never interfered with the plaintiff's possession and enjoyment of her house property. However, the portion claimed by the plaintiff as her front yard is not included in the patta granted to her and, in fact, constitutes the common right of way available to both parties. It was also submitted that the defendant has instituted a separate suit in O.S. No. 62 of 2022 by impleading the Government as a party. In the said suit, the Government filed its written statement, and a copy of the said written statement has been marked as an exhibit in the present suit. According to the learned counsel, the same clearly establishes that the disputed portion belongs to the Municipality.

27. The learned counsel further pointed out that, although the plaintiff herself had sought the appointment of an Advocate Commissioner, she did not choose to examine either the Advocate Commissioner or the Surveyor who assisted the Commissioner. On the contrary, it was the defendant who examined the Surveyor who had assisted the Advocate Commissioner and produced the relevant sketch before the Court.

28. Finally, the learned counsel submitted that the plaintiff is not in the exclusive possession of the disputed portion measuring 5 feet in breadth and 16½ feet in length, which she describes as her front yard. According to him, the plaintiff has instituted the present suit with an intention to appropriate the common right of way available to the defendant, which lies on land belonging to the Udhagamandalam Municipality. Therefore, in the absence of a prayer seeking declaration of title, the



suit for bare injunction is not maintainable. Hence, he prayed that the suit be dismissed with costs.

Points for consideration:

29. The arguments advanced by the learned counsel appearing on either side have been carefully considered. The plaint, written statement, oral and documentary evidence adduced by both parties, as well as the entire records of the Court, have been meticulously examined. The core question that arises for determination in this suit is whether the plaintiff is entitled to the relief of permanent injunction as prayed for. For the purpose of deciding the said question, this Court has framed the above-stated issues. The discussion and findings on each of those issues are set out in the succeeding paragraphs.

Discussion on Issue No. 1:

30. The issue No.1 is that, whether the plaintiff is in possession and enjoyment of the suit property? In a suit for permanent injunction, the burden squarely lies upon the plaintiff to establish her lawful possession over the property in dispute as on the date of the suit. The plaintiff has described the suit property as two cents of land comprised in Survey No. F/13/22 of Udhagamandalam Town together with the house bearing Door No.25/26 standing thereon. The relief of injunction has, however, been sought specifically in respect of a portion measuring 5 feet in breadth and 16½ feet in length, described as the front yard, together with the handrail wall allegedly constructed therein. The boundaries mentioned in the plaint schedule are stated as North by common land, South by common land, East by common land and West by Survey No. F/13/22.

31. Though the plaintiff has pleaded that the defendant is her neighbour, the defendant's property has not been shown as one of the boundaries to the suit schedule



property. Further, although the relief is sought in respect of a specific front yard portion and the handrail wall constructed therein, the plaint does not disclose on which side of the alleged total extent of two cents the disputed portion is situated. No separate schedule with proper boundaries has been furnished in respect of the specific portion over which the injunction is sought. Such omission assumes significance, particularly when the dispute revolves around the identity and possession of a specific strip of land.

32. The case of the plaintiff is that she is the absolute owner of the suit property comprising two cents of land and that the disputed front yard portion forms part of the same. According to her, the entire extent was assigned to her under a house-site patta issued by the Government. To substantiate the same, she examined herself as Pw-1 and marked Ex.A-1, being the photocopy of the house-site assignment order compared with the original, and Ex.A-2, the property tax receipt.

33. Though the defendant has not disputed that a house-site patta had been issued in favour of the plaintiff, the defendant contended that the extent granted under Ex.A-1 was only 20 square metres, equivalent to approximately 215 square feet, and not two cents as claimed by the plaintiff. On perusal of Ex.A-1, it is seen that the assignment relates to an extent described as "00020". The rough sketch appended thereto mentions the measurements as "5.0 x 4.0". However, the unit of measurement has not been specified in the copy produced before this Court. The original patta has not been produced. Further, the plaintiff has not examined the competent authority who issued the patta. Consequently, Ex.A-1, by itself, does not conclusively establish that two cents of land had been assigned to the plaintiff.



34. If the measurements 5.0 x 4.0 found in Ex.A-1 are taken as metres, the total extent would work out to 20 square metres, which approximately equals 215 square feet. Significantly, Pw-1 herself admitted the said extent during her cross-examination. Her deposition reads as follows: "வழக்கு சொத்து அரசாங்க நிலமாக இருந்து அதில் எனக்கு வா.சா.ஆ.1-ன் படி பட்டா வழங்கப்பட்டது. வா.சா.ஆ.1-ன் படி எனக்கு 20 சதுர மீட்டர் நிலம், அதாவது 215 சதுரடி நிலம் வழங்கப்பட்டுள்ளது என்றால் சரிதான். வா.சா.ஆ.1-ஐ தவிர என் பெயரில் வேறு ஏதேனும் பட்டா உள்ளதா என்றால் இல்லை. வா.சா.ஆ.1-ன் அடிப்படையில்தான் நான் உரிமை கோரி இவ்வழக்கை தாக்கல் செய்துள்ளேன் என்றால் சரிதான்." Thus, the plaintiff unequivocally admitted that the extent assigned to her under Ex.A-1 was only 20 square metres, namely 215 square feet.

35. Pw-1 further deposed in her cross-examination as follows: "நான் வா.சா.ஆ.1-ல் வழங்கிய இடத்தைவிட அதிகமாக 30 சதுரடியில் வீடு கட்டியுள்ளேன் என்றால் சரியல்ல. வா.சா.ஆ.1-ல் வழங்கிய இடத்தில் மட்டும்தான் வீடு கட்டியுள்ளேன். நான் வீடு கட்டியதுபோகத்தான் எனது வீட்டிற்கு முன்பு 5 அடி அகலம் 16 1/2 அடி நீளமும் கொண்ட வழி உள்ளது என்றால் சரியல்ல. எனக்கு பட்டா வழங்கப்பட்ட இடத்தில் நான்தான் எனது வீட்டிற்கு முன்பு வாசலுக்காக காலி இடத்தை விட்டுவிட்டு எனது வீட்டை கட்டியுள்ளேன். நான் எனக்கு வழங்கப்பட்ட 215 சதுரடி அல்லாமல் 32 சதுரடி அதிகமாக சேர்த்து வீடு கட்டியுள்ளேன் என்றால் சரியல்ல. எனது வீடு கட்டப்பட்டுள்ள இடம் மொத்தம் 247 சதுரடி என்றால் அதுபற்றி எனக்கு தெரியவில்லை. ஆனால் நான் வா.சா.ஆ.1-ல்



வழங்கப்பட்டுள்ள இடத்திற்குள் மட்டும்தான் வீடுகட்டியுள்ளேன். 247 சதுரடி அல்லாமல் மேற்சொன்ன 5X16½ அடி நீள வழிப்பாதை உள்ளது என்றால் சரியல்ல."

36. From the above evidence, the plaintiff maintained that she had constructed the house within the patta extent while leaving an open space in front of the house. The front yard claimed by the plaintiff measures 5 feet by 16½ feet, which comes to approximately 82.5 square feet. However, the plaint does not disclose the actual measurement of the house constructed by the plaintiff. Therefore, it is impossible to ascertain from the plaint as to whether the disputed portion could be accommodated within the extent allegedly assigned to the plaintiff.

37. On perusal of the Advocate Commissioner's report and its annexures, it is seen from Annexure No.2, namely the proceedings of the Executive Engineer, Coimbatore Division dated 11.11.2017, that the plaintiff had been sanctioned construction of a concrete floored house measuring not less than 300 square feet under a Government subsidy scheme. Further, Annexure No.5, namely the Surveyor's sketch marked as Ex.C-1 through Cw-1, reveals that while the patta extent allotted to the plaintiff was 215 square feet, the actual extent occupied by the plaintiff with the building measured 247 square feet. It is pertinent to note that the plaintiff did not file any objections to the Advocate Commissioner's report.

38. Thus, the evidence on record clearly establishes that the plaintiff had been allotted only 215 square feet under Ex.A-1, whereas the actual extent occupied by her building measured 247 square feet. When the plaintiff asserts absolute ownership and possession over two cents of land, including the disputed front yard portion measuring 5 feet by 16½ feet, the burden lies heavily upon her to establish such possession by cogent evidence. The plaintiff has failed to discharge that burden.



39. In the light of the foregoing discussion, this Court holds that the plaintiff has failed to prove her lawful possession over the suit schedule property in the manner pleaded in the plaint. ***Accordingly, Issue No.1 is answered against the plaintiff.***

Discussion on Issue No.2:

40. Issue No.2 relates to whether the plaintiff is entitled to the relief of permanent injunction as prayed for. In order to obtain a decree for permanent injunction, the plaintiff must establish both her lawful possession over the property and the interference by the defendant with such possession. As already held while answering Issue No.1, the plaintiff has failed to establish her lawful possession over the disputed portion. The failure to prove lawful possession itself disentitles the plaintiff from obtaining the equitable relief of permanent injunction.

41. Apart from the above, the evidence available on record probabilises the defendant's case that the disputed portion is being used as a pathway. The plaintiff herself admitted in her cross-examination that the defendant has been using the said portion as access to her house. The relevant portion reads thus: "இன்றைய தேதி வரை பிரதிவாதி அந்த இடத்தை தான் வழியாக பயன்படுத்துகிறார் என்றால் சரிதான். ஆனால் நான் எவ்வளவு கூறியும் வேண்டுமென்றே அவர் அதை பயன்படுத்துகிறார்." "பிரதிவாதி தற்போதும் 5 அடி பாதையில்தான் தனது வீட்டிற்கு சென்றுவருகிறார் என்றால் பிரதிவாதி பிரச்சனை செய்யவேண்டும் என்றே எனது இடத்தில் நடந்து செல்கிறார்." These admissions clearly establish that the defendant has been using the disputed portion as a means of access to her house.



42. Ex.C-1, namely the Surveyor's sketch, depicts the disputed portion as a right of way measuring 6 feet in width. Cw-1, the Zonal Deputy Inspector, has stated in his report that the land situated in front of the plaintiff's and defendant's houses belongs to the Udhagamandalam Municipality and that both parties have been using the same as a pathway. Similarly, the Advocate Commissioner has noted in her report and rough sketch that the disputed portion claimed by the plaintiff forms part of a right of way measuring 6 feet in width according to the Surveyor's measurements and that both parties are using the same as a pathway.

43. Much emphasis was placed by the learned counsel for the plaintiff on the alleged contradictions in the evidence of the defendant and the official witnesses regarding the measurements and user of the disputed portion. It was also argued that the defendant gave varying versions regarding the duration of her use of the pathway and that the official witnesses were not wholly reliable. However, it is well settled that the plaintiff in a suit for injunction must succeed on the strength of her own case and not on the weakness of the defendant's case. Even assuming that there are certain inconsistencies in the evidence adduced on behalf of the defendant, such inconsistencies cannot relieve the plaintiff of her burden to establish her lawful possession.

44. The admissions of Pw-1, the documentary evidence produced, the Advocate Commissioner's report, the Surveyor's sketch and the evidence of Cw-1 collectively demonstrate that the plaintiff was allotted only 215 square feet under Ex.A-1 and that the disputed portion measuring 5 feet by 16½ feet does not form part of the plaintiff's exclusive holding. On the contrary, the evidence indicates that the said portion has been used by both parties as a pathway.



45. Further, the plaintiff claims an exclusive right over the disputed portion, whereas the defendant has specifically denied such right and has asserted that the same forms part of a common pathway situated on municipal land. When the plaintiff's title and exclusive right over the disputed portion are seriously disputed and when no documentary evidence has been produced to establish such exclusive right, a suit for bare injunction without seeking the consequential relief of declaration of title in respect of the disputed portion is not maintainable in law.

46. Therefore, this Court holds that the plaintiff has failed to establish either her lawful possession over the disputed portion or the alleged unlawful interference by the defendant. Consequently, the plaintiff is not entitled to the relief of permanent injunction as prayed for. ***Accordingly, Issue No.2 is answered against the plaintiff.***

Discussion on Issue No.3:

47. Issue No.3 relates to the other relief, if any, to which the plaintiff is entitled. In view of the findings recorded on Issues No.1 and 2 that the plaintiff has failed to establish her lawful possession over the suit property and that she is not entitled to the relief of permanent injunction, the plaintiff is not entitled to any other relief in this suit. ***Accordingly, Issue No.3 is answered against the plaintiff.***

48. Considering the nature of the dispute, the relationship between the parties as neighbouring occupants, and the facts and circumstances of the case, this Court is of the view that it would be appropriate to direct the parties to bear their respective costs.

**RESULT:**

49. In the result, this suit is dismissed without cost. The parties are directed to bear their own costs.

This judgment is dictated to the steno typist, typed by her in computer, corrected and pronounced by me in open court, on this 19th day of June 2026.

**DISTRICT MUNSIF,
UDHAGAMANDALAM**

List of Witnesses and Documents:**Plaintiff's side witnesses examined:**

1. Mary - Pw-1 (Plaintiff)

Plaintiff's side exhibits marked:

Sl. No	Date	Documents	Nature of Documents	Exhibits
1.	-	Housr site Assignment Order	Photostat Copy (Compared with Original)	Ex. A-1
2.	19.01.2016	Property Tax Receipt	Original	Ex. A-2

**Defendant's side witnesses examined:**

1. Shanthi - Dw-1 (Defendant)
2. Mr. Arunraj - Dw-2 (V.A.O. Udhagamandalam Town)
3. Mr. Mahendrakumar - Dw-3

Defendant's side exhibits marked:

Sl. No	Date	Documents	Nature of Documents	Exhibits
1.	-	House site Assignment Order	Photostat Copy (Compared with Original)	Ex. B-1
2.	-	Property Tax Receipts – 4 Nos.	Original	Ex. B-2
3.	-	Electricity Bill Receipts – 3 Nos.	Original	Ex. B-3
4.	05.01.2016	C.S.R. Receipt	Original	Ex. B-4
5.	-	Written Statement of 3 rd defendant in O.S. No. 62 of 2022	Court Certified Copy	Ex. B-5
6.	--	Written Statement of 4 th defendant in O.S. No. 62 of 2022	Court Certified Copy	Ex. B-6
7.	25.02.2026	Permission Letter issued by the Tahsildar, Udhagamandalam	Original	Ex. B-7
8.	24.02.2026	Permission Letter issued by the Commissioner, Udhagamandalam Municipality	Original	Ex. B-8
9.	26.02.2026	Proceedings of the Commissioner, Udhagamandalam Municipality	Original	Ex. B-9

Court witnesses examined:

1. Mr. R. Rajendran - Cw-1 (Zonal Deputy Inspector)

**Court exhibits marked:**

Sl. No	Date	Documents	Nature of Documents	Exhibits
1.	26.10.2018	Plan and Report provided by the Town Sub-Surveyor, Udhagamandalam.	Original	Ex. C-1
2.	-	Commissioner's Report along with 13 annexures	Original	Ex. C-2

**DISTRICT MUNSIF,
UDHAGAMANDALAM.**



Draft / Fair Judgment:

O.S. No. 14/2016

Dated: **19.06.2026**

**District Munsif Court,
Udhagamandalam**