

**(1892) 03 MAD CK 0021**  
**In the Madras High Court**

Alla Peda Bapayya and Others

APPELLANT

Vs

Vishnumukkala Chinna Basaviah

RESPONDENT

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**Date of Decision :** 14-03-1892

**Acts Referred:**

**Citation :** (1892) 2 MLJ 210

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**Judgement**

1. It is urged that the judge is in error in holding that a tenancy is established as between plaintiff and defendants 1 to 3, and that the claim is

therefore not barred by limitation. It is further urged that the decision in the former suit (O. S. No. 470 of 1884 and A. S. No. 123 of 1885),

negatived the oral lease then set up by the plaintiff.

2. We observe that plaintiff is the purchaser of the property at a revenue sale and that defendants 1 to 3 were the then defaulter's tenants.

Subsequent to the sale they continued to hold under the defaulter and after his death under his widow the 4th defendant. It is clear therefore that

their possession was in law that of the 4th defendant. In the former suit to which they and 4th defendant were also parties the plaintiff's title as

against 4th defendant was upheld, though the suit was dismissed on the ground that notice to quit had not been given to the tenants.

3. As the decree in the former suit clearly established plaintiff's title as against 4th defendant within twelve years prior to the present suit, the

contention that the suit is barred cannot be upheld.

4. The case, Mohima Chunder Mozoomdar v. Mohesh Chunder Neoghi, reported in I. L. R 16 C 473 is not in point. For in that case there was

no decree establishing the title of one rival proprietor against another within twelve years prior to the suit.

5. We dismiss this second appeal with costs.