

(1896) 07 MAD CK 0011
In the Madras High Court

Anantha Bhatta

APPELLANT

Vs

Holeya Deyyu and Another

RESPONDENT

Date of Decision : 14-07-1896

Acts Referred:

Citation : (1896) ILR (Mad) 437

Hon'ble Judges : Arthur J.H. Collins, C.J;Benson, J

Bench : Division Bench

Judgement

1. The only question argued before us in this appeal is whether the suit is barred by limitation. The respondent's case is that the appellant having

become absolute owner in 1876 (on the expiry of the ten years stipulated in Exhibit A), his right to recover possession arose then, and as he was

not then or afterwards in possession up to the date of suit, a period of more than twelve years, his right to recover was barred.

2. This argument is defective. Under Exhibit A executed in 1866, the plaintiff was the landlord and Keshava Hebbara was his tenant and was in

possession of the land as his tenant. Before the expiry of the ten years stipulated for in Exhibit A Keshava Hebbara died and Exhibit I was

executed by his widow. It gave possession of the plaint land to Gopala Bhatta, who thus became a tenant in possession under the plaintiff.

3. The fact that in 1876, on the expiry of the ten years stipulated for in Exhibit A, the plaintiff's title became that of absolute owner instead of

merely conditional vendee or mortgagee did not alter the character of the possession held by Gopala Bhatta. He continued to be the plaintiff's

tenant, holding over after the expiry of the term in the lease (Exhibit A) and his possession was in no sense hostile. That this is so is clear from

Exhibit IV executed on the 7th February 1881, in which Gopala Bhatta recites all the prior transactions and admits the title of the plaintiff as

landlord. The second defendant (second respondent) claims under this assignment.

4. It is clear, then, that the tenancy created under Exhibit A has never been determined, and it was acknowledged in February 1881, i.e., within twelve years prior to the suit. For both these reasons, then, the plea of bar by limitation is unsustainable.

5. We reverse the decrees of the Courts below and give judgment for plaintiff as sued for with costs throughout.