

---

**(1917) 03 MAD CK 0028**  
**In the Madras High Court**

Gangadharan Pattar and Others

APPELLANT

Vs

Patinhara Kovilakath Thazhathe Manavikraman alias Cheria  
Kunjunni Rajah Avl. and Others

RESPONDENT

---

**Date of Decision :** 06-03-1917

**Acts Referred:**

**Citation :** AIR 1918 Mad 453 : 42 Ind. Cas. 268 : (1917) 6 LW 491 : (1917) 33 MLJ 512

---

**Judgement**

1. This is a suit by a Melcharatdar from the stani, the 4th Rajah of Calicut, to recover possession of certain property held by the defendant under a lease from that stani, and also to recover the arrears of rent which had been assigned in the melcharath. The Melcharatdar gave the defendant notice to quit, Exhibit C. The defendant set up that under his lease, he was entitled to a right of permanent occupancy or alternatively to hold for 12 years. The District Munsif on the construction of the document and on the evidence of surrounding circumstances and on the evidence of plaintiff's witnesses 3 and 4, one of whom was a clerk of the stani upheld the contention that it was for a term of 12 years. The Subordinate Judge on appeal has declined to act on the evidence of plaintiff's witnesses 3 and 4, or to attach any special characteristics to Verumpattom leases from the Rajahs of Calicut and holding that this is an ordinary Verumpattom lease negated the claim for 12 years. The points urged before the District Munsif are pressed on us here and great stress is laid on the fact that this property has been held since 1870 and that there have been three renewals which it is urged, prove the payment of a renewal fee. If the renewals had been at the end of periods of 12 years, there might have been some force in this argument, but the dates are 1870, 1881, 1888 and 1902. In our opinion those

dates are against the contention of the appellant. The document itself is silent as to the term, but contains a provision that the rent shall be paid in Makaram of every year. We agree with the Subordinate Judge that this is a Verumpattom lease. The nature of such a lease has been explained many years ago in the proceedings of Sadar Adawlat Court of August 5, 1856. These proceedings have been held in Teyyan Nair v. Zamorin of Calicut and Achutha Menon v. Sankara Nair ILR (1911) M. 380 and by this Bench quite lately to be authoritative. The description is as follows: Verumpattom-simple lease. ""This lease runs only for a single year unless otherwise specified. At the end of the year the landlord is at liberty either to renew the lease or to let the land to another tenant; but he cannot under any circumstances disturb the tenant in his enjoyment until the year has expired. Where the lease is for a specified period, the tenant cannot be ejected during that period unless he endeavours to defraud the landlord or allows the rent to fall into arrears. In either case, however, an action of ejectment will lie against the tenant"". (Proceedings of the Court of the Sadar Adawlat No. 18, dated 5th August 1856). It is clear therefore that the 12 years presumed in the case of a Kanom has no application to a Verumpattom. We must therefore treat this as a lease from year to year and accordingly the suit was not premature. The next question is as to the sufficiency of notice contained in Ex.C. This is dated 16th January 1913 and gives notice to quit on or before 26th February 1913. The Subordinate Judge has found that this is timely notice. It is urged that he has ignored the principle that notice must be for the end of a term and must also allow 6 months. Admittedly there is no statutory provision but the English Law is relied on, and the principles enunciated in the Transfer of Property Act. The chief authority relied on in support of this contention is Kishori Mohun Boy Chowdhry v. Nund Kumar Ghosal ILR (1897) C. 720 This case was treated as one not of general application in Digambar Mahto v. Jhari Mahto ILR (1899) C.761, in which the learned Judges have preferred to follow the rule laid down in a long series of cases, Jugut Chundar Roy alias Bashi Chander Roy v. Rup Chand Ghango ILR (1882) C 48 Radha Cobind Koer v. Rokhal Das Mukerji I.L.R.(1885) C. 82 Bindumukhi Debea Ghowdhra v. Kefyutullah ILR (1885) C.93 and Kali Kishen Tagore v. Colam Ali ILR (1886) C. 3. The true general

principle is stated by Field, J., in the earliest of these cases. Thus "what is reasonable notice is a question of fact which must be decided in each

case according to the particular circumstances and the local customs as to reaping crops and letting land". The same view has been adopted by this

Court in a recent case S.R.M.A.R. Ramaswami Chettiar v. Kathan Amabalagaran (1915) 28 I C. 915 and in a still more recent case S.A. No.

272 of 1915. We entirely agree that there is no right to a 6 months notice. With regard to the date fixed in the notice for relinquishment, the exact

synchronising of that with the termination of the lease period is only of importance in so far as it prevented difficulty in apportionment. Vide Kishori

Mohan Chowdhury v. Nand Kumar Ghosal ILR (1897) C. 720. In the present case the notice period expired on February 26, 1913. The renewal

referred to in Exhibit B was dated March 9th. The whole rent for the year was payable before the end of Makaram which is prior to February

26th and both dates are admittedly after the end of the cultivation season. No difficulty as to apportionment of rent could therefore possibly arise.

There is therefore no legal objection to the finding of the Lower Appellate Court that the notice was timely. There remains "two other points. The

finding of the Subordinate Judge as to improvements is one of fact and cannot be contested here. As to the decree for 3 years arrears of rent it is

true that the stani had already got a decree for that prior to this suit, but the plaintiff was not a party to that suit and is entitled to recover the rent on

his assignment, notice of which had been given to the defendant, If he did not choose to plead the assignment as a defence to the Small Cause

Court suit he cannot rely on the decree in that suit against the plaintiff's claim. The appeal must therefore be dismissed with costs.