

(1910) 04 MAD CK 0035
In the Madras High Court

Karnam Venkatakrishna Pillai

APPELLANT

Vs

Appana Muthialu Reddy and Another

RESPONDENT

Date of Decision : 06-04-1910

Acts Referred:

Citation : (1910) 20 MLJ 821

Judgement

1. In this case the tenant did not accept the Patta tendered and the landholder therefore was entitled to proceed by summary suit before the

Collector to enforce acceptance of the Patta, and in such a suit it is for the Collector to settle the terms of the tenancy.

2. It has been decided by the Judicial Committee that so long as proceedings are pending before the Collector and on appeal from him before the

Civil Courts, the rate of rent is in suspense and therefore no arrears of rent can be said to have been due within the meaning of the Limitation Act.

This conclusion is based upon a consideration of the sections of the Rent Recovery Act. For the same reasons we hold the rent became due u/s 2

of the Rent Recovery Act for purposes of proceedings under the Act when the rate of rent was ascertained by the final decision of the Civil Court.

There is, therefore, no tear under that section.

3. It is argued that the attachment is bad as it was for a larger amount than what the District Judge held to be due. It has been held by this Court in

recent cases that the attachment is good for the amount actually due, A case of sale stands on a different footing from a case of attachment. The

case before us is only one of distraint, not of sale.

4. The second appeal is dismissed with costs.