

(1906) 11 BOM CK 0008
In the Bombay High Court

Manjappa Subbaya and Another

APPELLANT

Vs

Venkatesh Bab Prabhu

RESPONDENT

Date of Decision : 16-11-1906

Acts Referred:

Citation : (1907) ILR (Bom) 159

Hon'ble Judges : Lawrence Jenkins, C.J.; Beaman, J

Bench : Division Bench

Judgement

Lawrence Jenkins, C.J.—The plaintiff has brought this suit against two defendants claiming against them the rent of four years.

2. The first Court passed a decree against the second defendant only and on appeal the District Judge has passed a decree against both the defendants for the whole of the rent claimed.

3. From this decree the defendant No. 1 now prefers this present appeal urging that though he may be liable in respect of the first year's rent, that is, for the year 1901, he is not liable for the subsequent years.

4. The ground on which he bases this contention is that having been merely an assignee himself he is only liable for the rent accrued during the time that he was the owner of the Mulgeni interest.

5. Now the facts are that the plaintiff purchased from the original lessor. The defendant No. 1 acquired, at a Court-sale, the interest of the original Mulgenidar, and on the 9th of May 1901, the first defendant sold and transferred to the second, defendant the Mulgeni interest acquired by him.

6. On these facts there can, we think, be no doubt that the contention of defendant No. 1 is correct.

7. In order to recover rent the relationship of landlord and tenant must be established between the parties, resting either on contract or privity of estate.

8. The only relationship that ever came into existence between the plaintiff and defendant No. 1 was one arising out of privity of estate, and that ceased when defendant No. 1 transferred his interest in the month of May 1901. Defendant No. 1 therefore can be liable for no rent that accrued after that date.

9. The result is that we must vary the decree of the District Judge by passing against defendant No. 1 a decree only for the rent that accrued upto May 1901, i.e., for Rs. 37-11-0.

10. The defendant No. 1 must get his costs of this appeal; and costs in the lower Courts should be in proportion.