

(1909) 12 MAD CK 0035
In the Madras High Court

Murugesa Mudaly

APPELLANT

Vs

Subraya Gramany and Another

RESPONDENT

Date of Decision : 21-12-1909

Acts Referred:

Citation : 6 Ind. Cas. 600

Hon'ble Judges : Arnold White, C.J;Krishnaswami Aiyar, J

Bench : Division Bench

Judgement

Arnold White, C.J.—I think this decree must be affirmed. The finding is that Subbaraya Naicker the defendant's vendor was the tenant of the plaintiff's vendor. With regard to the 5th issue in the case which raises the question of notice to quit, which was really the only point argued before us in appeal, the finding was that Subbaraya Naicker set up title in himself and denied the landlord's title before suit and that he was not entitled to notice to quit, and inasmuch as the defendant and his vendor claimed through him and they also denied the tenancy of Subbaraya Naicker, they were not entitled to notice to quit. It seems to me that this is right and that no notice to quit was necessary.

2. Then there is another view and that is the case that the plaintiff did not set up in his plaint, but set up in his evidence, viz., that he got back possession from Subbaraya Naicker.

3. Accepting that view for a moment there is no relation of landlord and tenant as between the parties to this suit, and in that view no notice to quit was necessary. In either view it seems to me that the decree of the Court below must be affirmed and this appeal dismissed with costs.

Krishnasamy Aiyer, J.

4. I agree.