

(1898) 08 MAD CK 0018
In the Madras High Court

Paramasiva Goundan

APPELLANT

Vs

Kandappa Goundan and Another

RESPONDENT

Date of Decision : 30-08-1898

Acts Referred:

Citation : (1898) 8 MLJ 201

Judgement

1. The real question for decision is whether the suit for recovery of rent for fasli 1301 is barred. It is not correct to say that the landlord's right to the rent accrues only after exchange of puttah and muchilika or tender of putta. The right of the landlord to the rent is a right existing prior to, and independent of, the written engagements prescribed by the Rent Recovery Act. The exchange of puttah and muchilika or tender of puttah is a condition imposed by law as a necessary preliminary to the filing of a suit but does not affect the accrual of the cause of action, for purposes of limitation in a suit like the present for arrears of rent. (See Coburn v. Colledge, 1897, I.Q.B., 702). Such cause of action accrues when the rent becomes payable according to contract or usage. It was for the plaintiff to show that the rent became due within three years prior to the bringing of his suit. He has not attempted to do so. As the defendants pleaded limitation in their written statement, the plaintiff ought to have called evidence to prove the facts necessary to show that his suit was in time. Having failed to do so, we cannot at this stage allow him to remedy the defect.

2. We, therefore, dismiss the second appeal with costs.