

(1893) 01 MAD CK 0005
In the Madras High Court

Pranambal Achee

APPELLANT

Vs

Palaniappa Mudaliar and Another

RESPONDENT

Date of Decision : 16-01-1893

Acts Referred:

Citation : (1893) 3 MLJ 222

Judgement

1. The fact of tenancy being admitted the burden of proof that defendant is a permanent tenant lies on the defendant. Exhibit A disproves the

defendant's case that he is a permanent tenant paying a rent of Rs. 71/2 per annum.

2. The only other question is whether the suit is bad for want of notice to quit. The case is not one in which the plaintiff's title is denied but merely

his right to possession. Subba v. Nagappa, I. L. R 12 M 353 is authority for holding that in such a case notice is necessary and this is not over-

ruled but distinguished in S. A. No. 512 of 1890, Chithambram Pillai v. Sabapathi Pillai, 1 Madras Law Journal, 218.

3. As it is admitted by plaintiff's that the letting was an annual one, the notice of less than a month and that given after the end of the fasli is clearly insufficient.

4. On this ground this second appeal must be allowed and the Lower Appellate Court's decree being set aside, that of the Court of First Instance restored. Decreed accordingly.

5. Respondents must pay appellant's costs in this Court and also in the Lower Appellate Court.