

(1915) 09 MAD CK 0068
In the Madras High Court

P.S. Sivarama Aiyar

APPELLANT

Vs

Muthu K.R. Alagappa Chetty by his Agent Vedachella Aiyar

RESPONDENT

Date of Decision : 06-09-1915

Acts Referred:

Transfer of Property Act, 1882 — Section 111(g)

Citation : AIR 1916 Mad 497 : 31 Ind. Cas. 211 : (1915) 2 LW 946

Hon'ble Judges : Sadasiva Aiyar, J; Napier, J

Bench : Division Bench

Judgement

1. The first contention, of the appellant's learned Vakil is that the expression "some act showing his" (lessor's) "intention to determine the lease", occurring; in Section 111, Clause (g), of the Transfer of Property Act must be confined to an attempt at re-entry, or to the filing of suit in ejectment, where the forfeiture is incurred by the breach of a condition of the lease-deed providing for re-entry on such breach. We must decline to put such a restricted construction on the very general phrase some act occurring in the Statute. The Lawyer's notices by the plaintiff in this case showing unequivocally his intention to determine the lease are, therefore, sufficient.

2. The next contention is that the appellant (2nd defendant) is not liable for rent, or to pay compensation for use and occupation, because he was neither the plaintiff's tenant, for did he continue in possession with the plaintiff's permission. The short answer to this contention is that he has been made liable for mesne profits as a person in illegal occupation and not as a tenant, permissive or otherwise.

3. Lastly, the learned Judge was right in making the 2nd defendant liable for mesne profits at Rs. 200 a month on his own admissions (see his evidence and his written statement in this case) that he has continued in possession of the same premises for which he had agreed to pay Rs. 200 rent to the 1st defendant.

4. The appeal, therefore, fails and is dismissed with costs.