

(1927) 02 MAD CK 0073
In the Madras High Court

(Puthen Purayilparkum Mookorth Kandiyl Andathodam)
Ummayya and Another

APPELLANT

Vs

(Moorkoth Kandivil Rayaooth Kandi Pakki) Musaliyar and
Others

RESPONDENT

Date of Decision : 25-02-1927

Acts Referred:

Citation : AIR 1927 Mad 1157

Hon'ble Judges : Ramesam, J

Bench : Division Bench

Judgement

Ramesam, J.—The facts of this case, either admitted or found, may be thus stated. The plaintiff is the karnavan of the thavazhi in a Mapille tarwad. On October 1899 the then karnavan of the tarwad allotted the suit land for the maintenance of the plaintiff's thavazhi under Ex. B. He had previously leased the land by a marupat dated March, 1899 to one Chathu. After executing Ex.B. he gave notice to the tenant Chathu, asking him to .pay the purapad to the plaintiff's thavazhi. Soon after he died. He was succeeded by a new karnavan. . The new karnavan told the tenant by registered notice not to pay the purapad to the plaintiff's thavazhi on the ground that Ex. B was a fraudulent arrangement. He went on collecting the rent for 1900, 1901 and 1902. In September 1902 he allotted the suit lands for stridhanam of defendant 4, a member of the same tarwad, but of a different thavazhi, from the plaintiff, and he gave notice, Ex. V, to the tenant asking him to pay the rent to defendant 4. The tenant Chathu executed a marupat to defendant 4 in 1902, Ex. 7, and this was renewed in 1909 by Ex. 8. The plaintiff never collected any rent from Chathu, nor took any steps to get possession of the suit land. In 1914 he filed a suit to recover rent and failed. The present suit was filed in 1915. Now it is admitted that Chathu never attorned to the plaintiff's thavazhi; at any rate it is not proved that he did so at all. The relation of landlord and tenant has not been created between the plaintiff and Chathu. That being so, the possession of the tarwad from October 1900 to September 1902 and of its assignee defendant 4, from September 1902 up to

date of suit, is adverse to the plaintiff and the plaintiff's title is extinguished by prescription. If a suit had been filed before October 1912 it might have been in time. As it is, it is three years late, the intervening time being lost in the other litigation, Exs. E and E 1.

2. The appeal is allowed and the Munsif's decree is restored with costs here and in the lower appellate Court. The memorandum of objections is dismissed.