

(1914) 07 MAD CK 0001
In the Madras High Court

Ranga Ramanujachariar and Another	APPELLANT
Vs	
Srinivasa Aiyangar and Others	RESPONDENT

Date of Decision : 22-07-1914

Acts Referred:

Transfer of Property Act, 1882 — Section 108(j), 55(J)

Citation : 25 Ind. Cas. 804

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

Bench : Division Bench

Judgement

Sadasiva Iyer, J.—(July 22nd, 1914)--I have already given some reasons (while admitting the petition) for holding that an agricultural tenant

owning the kudivaram right ceases to be liable for subsequent rent after he gives notice to the landlord of the sale of his interest. The decision in

Monica Kitheria v. Subbaraya 30 MA. 410 : 17 M.L.J. 258 : 2 M.L.T. 363, turned upon the existence of a privity of contract between the

landlord and the mulgeni tenant in that case, but the relationship of landlord and tenant with permanent occupancy right was not created by any

contract in this case.

2. Section 55, Clause (j), of the Transfer of Property Act, also makes it clear that the vendee becomes liable for rent due on the property sold

from the date of his acquisition of title by purchase. In the result the lower Court's decree will be modified by making defendants Nos. 1 and 2

liable for only Rs. 78 of the amount decreed and three-fourths of the costs of the suit. The petitioners must pay three-fourths of the respondents'

costs here.

Tyabji, J.

3. The question involved in this petition is whether the original tenant is Responsible for rent on the holding, after he has transferred his holding to a third person and has given notice of the transfer to the Melvaramdar (landlord.)

4. The Madras Estates Land Act does not apply in terms, but the provisions of Sections 146 (2) and 147 (3) supply an analogy. The other rules of

Statutory Law that may possibly be applied are the Transfer of Property Act, Section 55 (1) (j). Section 108, Clause (j), of the Transfer of

Property Act, however, refers to relations arising out of contract. In the case of tenants with occupancy rights those rules do not, it seems to me,

furnish a sufficiently close analogy. The law has, it may also be pointed out, always leaned in favour of allowing free transfers of interests in land.

This may be exemplified by the attitude of English Judges towards under-leases even in cases where there are covenants not to under-let. See

West v. Gwyne (1911) 2 Ch. 1 : 80 L.J. Ch. 578 : 104 L.T. 759 : 55 S.J. 519 : 27 T.L.R. 411.

5. On the whole, therefore, it seems to me that the rule of law which is indicated as being applicable in the present case is that an occupancy tenant

is not any more liable for rent after he has transferred his holding and given notice of the transfer to his landlord.

6. I agree, therefore, in the order proposed by my learned brother.