

Madavan Vs. Athi Nangiyar and ors.

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Court : Chennai

Decided On : Oct-26-1891

Reported in : (1892)ILR15Mad123

Judge : Muttusami Ayyar and ;Handley, JJ.

Appellant : Madavan

Respondent : Athi Nangiyar and ors.

Judgement :

1. Assuming that the rights under the demise were forfeited by the alienations made by first defendant, these alienations were admittedly made more than twelve years before suit, and the suit, so far as it is based upon forfeiture, is barred by Limitation. We also observe that rent was accepted for several years after the alleged alienation. On these grounds, we think the decision of the lower Courts can be supported. It is argued for appellant that he has a right to recover, because first defendant denied his title in the written statement. It is not shown that there was any denial of title before suit, and therefore plaintiff had no cause of action at the time of filing the suit.

2. The cases referred to by appellant's Vakil, including Chidambaram v. Saminatha Second Appeal No. 512 of 1890, unreported all relate to the question whether a disclaimer of the landlord's title would preclude the necessity of proving a valid notice to quit.

3. We do not think the disclaimer in the written statement in this case can relate back to the date of institution of the suit, and thereby give plaintiff a cause of action which he did not otherwise possess. There is no question of notice to quit in this case.

4. The appeal fails and is dismissed with costs.

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