

ITTIRARI-
JEAN UNNI
v.
KUNJENNI-
unworkable. The District Judge, in adopting it from the prayer of a bill, has failed to notice that in order to make the decree complete directions would be required as to the persons to whom the interest on the sum invested or the sum itself should ultimately be paid.

We must set aside the decree against the surviving defendant and restore as regards him the decree of the District Munsif. The respondent must pay the second defendant's costs in this and in the Lower Appellate Court.

APPELLATE CIVIL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, and
Mr. Justice Davies.*

RAMASAMI MUDALIAR (DEFENDANT), APPELLANT,

1897,
October 26.

v.

RATHNA MUDALIAR (PLAINTIFF), RESPONDENT.*

Rent Recovery Act (Madras)--Act VIII of 1865, s. 8--Suit to enforce tender of patta--Suit brought after expiration of fasli.

A tenant is not entitled to bring a suit under Rent Recovery Act, 1865, section 8, to enforce the tender of a patta by his landlord after the expiration of the fasli to which the patta relates.

SECOND APPEAL against the decree of S. Russell, District Judge of Chingleput, in Appeal Suit No. 241 of 1895, modifying the decision of M. Srinivasa Rau, Deputy Collector of Chingleput, in Summary Suit No. 5 of 1895.

The plaintiff was the tenant of the defendant, and he sued under Rent Recovery Act, 1865, section 8, to enforce the tender by the defendant of a patta for fasli 1303. The plaintiff demanded a patta after the expiration of the fasli, viz., in August 1894, and instituted this suit in December of the same year. The defendant had tendered to the plaintiff, on the 29th of June 1894, a patta which he refused to accept, alleging that it was not a proper patta which he was bound to accept. The Deputy Collector found that the patta tendered was a proper patta, and accordingly

* Second Appeal No. 1538 of 1896.

dismissed the suit. The District Judge was of opinion that the patta required a modification, and directed that a new patta be given modified accordingly.

KRISHNASAMI
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v.
KRISHNA
MUDALIAR.

The defendant preferred this second appeal.

Pattabhirama Ayyar for appellant.

Krishnasami Ayyangar for respondent.

JUDGMENT.—We do not think that exhibit III is evidence of an implied undertaking by the plaintiff that he accepted the rates and terms of the patta, exhibit A.

But the second point urged that the suit was not brought within the fasli 1303 to which the patta relates is, we think, fatal to the suit. It has been held in *Venkatasami Naik v. Setupati Ambalam*(1) that a patta must be tendered by a landlord within the fasli for which rent is sought to be recovered, and we are of opinion that the same rule must apply to a tenant when he demands a patta from the landlord. This suit, being brought after the expiration of the fasli for which the patta was demanded, was therefore barred by time. On that ground only, we reverse the decree of the District Judge and restore that of the Deputy Collector. The plaintiff must pay the costs of the appellant in this and in the Lower Appellate Court.

APPELLATE CIVIL.

Before Mr. Justice Shephard and Mr. Justice Boddam.

VIRU MAMMAD (DEFENDANT No. 17), APPELLANT,

v.

KRISHNAN AND OTHERS (PLAINTIFF AND DEFENDANTS Nos. 6,
7, 9, 11 AND REPRESENTATIVES OF DEFENDANT
No. 15), RESPONDENTS.*

1887.
November 3.

*Malabar Compensation for Tenants' Improvements Act (Madras)—Act I of 1887,
ss. 4 and 7—Improvements made before and after 1st January 1886.*

Malabar Compensation for Tenants' Improvements Act, 1887, section 7, cannot be construed retrospectively so as to invalidate agreements made with respect to improvements prior to the passing of the Act. In computing, therefore, the value of improvements made by a tenant in Malabar, who was let

(1) 7 M.H.C.R., 359.

* Second Appeal No. 1527 of 1895.