

MUNRO, J.J., in *Chalavadi Ketiah v. Poloori Alimelammah*(1), and we agree with them that where an application is made to continue proceedings in a pending execution the right to apply accrues from day to day and will not be barred until 3 years have elapsed after the proceedings have ceased to be pending. This proposition is deducible as pointed out in that case from the course of decisions on the subject. See *Venkatappiah v. Jugannatha Rao*(2), *Chowdhry Parsoosh Ram Das v. Kali Puddo Bannerjee*(3), *Kedernath Dutt v. Harra Chand Dutt*(4) and *Qamar-ud-din Ahmad v. Jawahir Lal*(5).

The appeal must therefore be allowed and the District Judge will be directed to dispose of the Execution Petition No. 15 of 1909 according to law. The respondents must pay the cost of this appeal.

SUBBA
CHARIAR
v.
MUTHUVEE-
RAN PILLAI.
—
BENSON AND
ABDUR
RAHIM, J.J.

APPELLATE CIVIL.

Before Mr. Justice Miller and Mr. Justice Abdur Rahim.

K. R. MANICKA MUDALIAR (PLAINTIFF), APPELLANT,

v.

T. CHINNAPPA MUDALIYAR AND ELEVEN OTHERS (DEFENDANTS
NOS. 2 AND 4 TO 11 AND PARTY, RESPONDENTS), RESPONDENTS.*

1912.
July 23.

Landlord and tenant—Lease until lessee requires or wishes—Tenancy at will on both sides.

A lease by which the lessees are to hold for such time as they require or wish is a tenancy at the will of the lessee which in law is a tenancy at the will of the lessor also.

"Coke on Littleton," page 55 (a), and Halsbury's Laws of England, volume 18, page 434, referred to.

APPEAL against the decree of V. VENUGOPAL CHETTI, the District Judge of Chingleput, in Original Suit No. 9 of 1905.

The facts of this case are clearly stated in the judgment.

T. Rangachariyar, S. S. Venkataramana Ayyar, V. Viswanatha Sastri, (Messrs. Venkatasubba Rao and Radakrishnaya) for the appellant.

(1) (1908) I.L.R., 31 Mad., 71.

(2) (1902) 12 M.L.J., 25.

(3) (1890) I.L.R., 17 Calc., 53.

(4) (1882) I.L.R., 8 Calc., 420.

(5) (1905) I.L.R., 27 All., 334 (P.C.).

* Appeal No. 53 of 1907.

MANICKA
 v.
 CHENNAPIA.
 —
 MILLER AND
 ABDUR
 RAHIM, JJ.

C. V. Ananthakrishna Ayyar for respondents Nos. 2, 4 and 6.

JUDGMENT.—We find ourselves unable to differ from the conclusion of the District Judge on the facts. We think the plaintiff is bound by the lease evidenced by Exhibit C.^s By that document the lessees are to hold for such time as they require, or wish, and it is argued that the contract is thus expressed to be a tenancy at the will of the lessee and so by implication of law a tenancy at the will of the lessor also. This contention is supported by reference to “Coke on Littleton,” page 55 (a), and is in accordance with the law of England as laid down in 18 “Halsbury,” page 434.

We agree that the lease is expressed as creating a tenancy at the will of the lessees and we have not been shown sufficient reasons for refusing to adopt the English law on the point. We think therefore that the plaintiff was entitled to terminate the tenancy, and he has done so.

The District Judge’s decision must be modified and the plaintiff must have a decree for recovery of possession of the market in addition to the decree for rent given by the District Judge, for mesne profits at the rate of Rs. 18 a month till delivery of possession from date of plaint.

Each party will bear his own costs throughout.
