

(8 1/2 5/11)

In the High Court of Judicature Bombay
Wednesday the 8th Day of March 1865.

Regular Appeal No. 11 of 1861.

Kishurao Humant deceased his son
and heir Mussingrao, also deceased, his
son and heir Anunt Hooligol of Kulsapoor
in the Dumbel Talooka of the Dharewar
District (original Plaintiff) ———

Appellant.

Versus.

Antaji Virpaksha Mootalik Desai, deceased
his heir, his son Raghunathrao alias Dada
-sahab of Kirulgi in the Kulkodi Talooka
of the Dharewar District and his Grandson
Phevanrao bin Abarao and his brother
Roodro Vaguth of Anunt in the Kulkodi
Talooka of the Dharewar District and Brother
Phevanrao Vaguth of Vedoor in the Kulkodi
Talooka of the Belgaur Division of the
Dharewar District (original Defendants)

Respondents.

Rupees 14,983-4-6.

The claim in the original suit was to recover
principal and interest due on a Bond.

In original suit No. 20 of 1857 the Judge of the
District of Dharewar at Dharewar threw out
the claim of the Plaintiff with costs.

A Regular Appeal was preferred in the High
Court on the grounds that (1) the decision
of the District of Dharewar on the
the bond No. 3
paper and pro
by the District
rejected the cla
according to the
No. 2905 the

No. 11
1861

reckoned either from the date of the payment
from the mortgaged property or from the date
of the Defendant's admission: that (3) the
Memo: No. 5 having been proved by the
evidence of witnesses Nos. 20, 25, 26, 39,
and 42 and the opposite party not having
disproved it, the District Judge should not
have doubted his genuineness: that (4)
the District Judge should not have
thrown out the claim on the ground that
the Memo: No. 5 set forth that another
document would be passed since no such
document was passed by the Defendant
according to the endorsement on the memo:
and therefore there was no objection to
allow the claim on the bond No. 3: that
(5) no objection should have been taken
to the Memo: No. 5 on the ground that it
was stamped after the death of its grantors
and grantee since the claim was founded
on the bond No. 3 and the Exhibit No. 5
being merely a Memo: of accounts it
could be stamped at any time according
to law and Act XXXVI of 1860 and
moreover one of the grantors Poodoy Nay
= Nath is alive and that (6) the bond
be the grantors
and therefore
be paid by the
extra and as
then possession
should have
been

Regular

MEMORANDUM OF COSTS incurred in Special Appeal No. 11

of 1861 against the decision of the Judge of the District of *Dharwar* and disposed of on the 8th March 1865 by amending the same.

BY THE APPELLANT—

IN THE DISTRICT.

In the *Judge's Court (including V. F.)* 675 6.10
In the

IN THIS COURT.

Stamp for Memorandum of Special Appeal	350	..	..
Stamps for copies of Decree and Judgment	1	..	..
<i>Stamp for Security Bond</i>	2	..	..
Stamp for Vukalutnamas (3)	6	..	..
Stamp of an application to enter the name of the Appellant's heir	2	..	..
Batta for Process and Postage	16	..	..
Sectioner's Fee .....	..	..	..
Vukeel's Fee	269	13	4

675 6.10

646 13.4

Rupees.... 1322.4.8

BY THE RESPONDENT—

IN THE DISTRICT.

In the *Judge's Court*

566 2.6

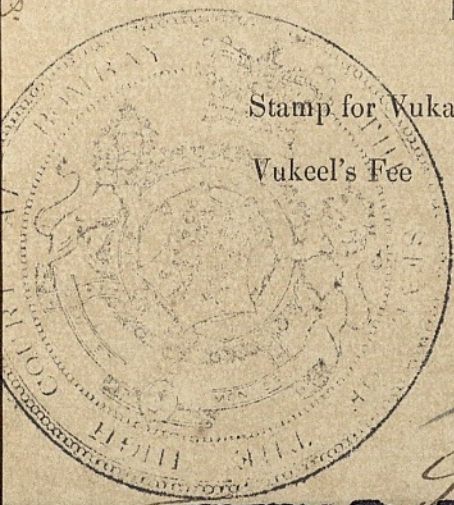
566 2.6

IN THIS COURT.

Stamp for Vukalutnama	2	..	..
Vukeel's Fee	269	13	4

271 13.4

Rupees.... 837 15 10



W. J. ...
Sealed
8th March 1865

A. West
Registrar

been awarded against them all.

Upon reading the report of the Acting Judge of the District of Phoswar, dated the 29th day of August 1864 and the evidence taken under the order of this Court bearing date the 16th August 1863, the Court finds the "Yad" No. 5 to be a ^{valid} ~~valid~~ ^{instrument} and binding upon the Defendants. The Court thereupon reverses the decree of the District Judge bearing date the 24th day of July 1861 and orders that the Plaintiff recover Rs. 14983 - 4 - 6 against the Defendants with six years simple interest on that sum at Rs. 9 per cent up to the filing of the plaint and the Court further orders that the Plaintiff be paid interest upon the sum decreed at the rate of Rs. 9 per cent per annum until payment, and the Defendant Phowanrow so desiring it lets reference be had, in levying the amount of this decree to the fact, that Phowanrow is a grandson of Autaji the original Debtor.

Costs on Respondents.

H. A. Saunse
J. Clewton,