

Bombay, Friday, 26<sup>th</sup> July 1861.

In the Sudder

Deewanee Adawlut



No. 4210 Appeal.

Balapa Bishto Trimbore, resident of Kulghatgee,  
Palooka Nooblee (Defendants) } Appellants

Verus.

Giryapa bin Niryapa Noobkudlee, resident of  
Machapoor, Palooka Nooblee (Plaintiff) } Respondents

Rupees 9 " "

The claim in the original suit (No. 5 of 1857) was to recover possession of a field, which Giryapa (original Plaintiff) asserted the Collector of Dharwar had unjustifiably taken from him and given over to Balapa (one of the original Defendants). The joint Judge of the Zillah of Dharwar who investigated this suit awarded against Defendants, Mr. Ogilvy the Collector of Dharwar and Balapa, with Costs.

Whereat being dissatisfied, Balapa preferred this appeal in the Sudder Deewanee Adawlut urging as follows:-

1<sup>st</sup> That under Act XVI of 1838 it was competent to the Collector to oust Giryapa (Plaintiff) and put Balapa (Defendant) in possession, the last having made an application to him within six months of his being dispossessed. That

2 That the Joint Judge was in error in holding that the Collector was not authorised to review his first order.

3 That the Joint Judge was in error in holding that a person buying the right of grazing has no preferential claim to obtain the same land for cultivation.

4 That Giryapa's possession was wrongful and fraudulent, wherefore, under the order of Government (Exhibit No. 23), it was competent to the Collector to auction and the Joint Judge was in error in ruling it was not so.

The Court affirms the decree of the Joint Judge with costs on Appellant Balapa.

Bill of Costs

In the Zillah

In the Joint Judges' Court ————— 8-6-10

In the Suder D. Adawat

By Appellant ————— 4-4-"

By Respondent ————— " " " 4-4-"

Rupies — 12-10-10

Ch. 29/8/61

Ch. 29/8/61

N. Keay

Puisne Judge

H. G. Herbert

W. P. P. P. Judge

H. C. C. C.

Act. Puisne Judge



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