

13/62 MR 6881
Bombay, Monday, 3rd March 1862

In the Sudder



Dewanee Adawlat

N^o 4304, Special

Narayanbhai bin Wambubhai
Mehundaley, resident of Dongur, } Appellant
Turf Sounder (original Defendant) - }

At
Ballaje Sudasen Datay, resident of
Dongur, Turf Sounder (original Plaintiff) } Respondent

Rspees 10 - - -

The claim in the original suit was
cause, the removal of a cowshed off the Plaintiff
Ballaje's land and to obtain damages for its
erection.

In appeal, No 65 of 1859, the Acting Senior
assistant Judge at the detached station of Putna-
giry in the Zillah of the Konkan, confirmed with
costs on Balaje, the decree of the Moonsiff of Ra-
japoor, who, on a reinvestigation of the case, non-
sued Balaje. The acting Senior assistant Judge
further declared that his decision was not to
affect Ballaje's right of way or to be a bar to
his endeavouring on that ground, to prevent Naray
from encroaching on his right.

Dissatisfied, Narayan made Special Appeal
in the Sudder Dewanee Adawlat urging that the de-
cision is beyond the plaint in that Balaje

swed

sued to establish his proprietary right to the land in dispute and that this being rejected, the Senior Assistant Judge decided contrary to law and Practice in affirming him a right of way over the said land.

The Court amend the decree of the acting Senior Assistant Judge so far as to cancel the words "this decision, however will not affect Plaintiff & Ballajee's right of way, neither will it be a bar to his endeavouring on that ground to prevent Defendant Karayen from encroaching on his right." Costs on Respondent.

Bill of Costs

By Appellant			
In the Zillah			
In the Moonsiff's Court	2-12--		
Senior assist. Judge's Court	0-13-10	3-9-10	
In the Sadar D. Adawlat			
Stamp for the Memo: of A. Appeal	0-8--		
" Copies of Decrees	2--		
Inkhiltnama	2--		
Batta for process	0-4--		
Out Keel's fee	0-4--		
Sectioner's fee	0-12-3	3-15-1	
		<u>7-8-11</u>	
By Respondent			
In the Moonsiff's Court	9-9-10		
Senior assist. Judge's Court	10-12-10		
	<u>20-6-8</u>		

H. Robert
 Parson Judge
 M. H. Forbes
 Acting Prisoner Judge

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True Translation

Charleston

South Registrar

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No 4304 Special Prought
Varimbhut bin Wa-
mumbhut Mahundly on this

of
Palajee Sudaseew case as
Datay.

Rs 10 - " - " per margin

Koukum

Vakeels Vishnoo Raojee and
Dhirajlal Muthooradas for
Appellant and no one for Resp^t.

Read the Proceedings
of the lower Courts and the Certifi-
cate granted by H. Hebbert Esquire
dated 13th July 1860.