

Bombay, Friday 7<sup>th</sup> March 1860

In the Sudder



Dewanee Adawlat

N<sup>o</sup> 4307 Special

Shaik Ahmed Wulud Shabooddeen  
by his Kool Akhtiarree Mahomed Hossien  
Wulud Shaik Ahmed, resident of Tuloji  
(original Defendant) ————— } Appellant

— 48 —  
Dhumboo bin Bhebo Goshree resident  
of Tuloji (original Plaintiff) ————— } Respondent

Rs 35 — " — " —

The claim in the original suit was to recover possession of some land and to compel the entry of it in the claimant's name.

In Appeal N<sup>o</sup> 156 of 1859 the Acting Assistant Judge reversed, with costs on Gunnya and Shaik Ahmed, the decree of the Moonsiff of Tanwel, and ordered Shaik Ahmed to make over the land to Dhumboo, and Mooksee to take the necessary measures to have it entered in Dhumboo's name.

Dissatisfied, Shaik Ahmed made Special Appeal in the Sudder Dewanee Adawlat on the grounds.  
1<sup>st</sup> That the Assistant Judge was in error in passing a decree against the Petitioner without determining the point at issue which was whether Aboo and Keerya and the other sons of Aboo were divided in interests.

2<sup>ndly</sup> That the property was sold to the Petitioner by Aboo and his son Gurnya before it was sold to Respondent; that it was entered in the Khata in Heerya's name after the date of the Petitioner's deed of Sale, and that therefore the sale to him constitutes a better title than that to Respondent.

3<sup>rdly</sup> That the Respondent having obtained a fresh deed No. 3 which virtually cancelled the previous deed of Sale No. 4 and that the Assistant Judge having considered the deed No. 3 as invalid, he should not have awarded the claim upon the former document which was cancelled by the Respondent and upon which the Respondent had not based his claim.

4<sup>th</sup> That the objection taken by the Assistant Judge with respect to the execution of the Petitioner's deed on plain paper does not arise in this case.

The Court confirm the decree of the acting Assistant Judge with costs.

### Bill of Costs

By Appellant

In the Lillah

In the Moonisiff's Court ————— 8. 4. 4.

—————"— Assist. Judge's ————— 1. 10. 10

————— 9. 15. 2

In the Sudder D. Adawlat

Stamp for the Memo: of Special appeal — 4 — " — "

—————"— Copies of Decrees — 1 — " — "

—————"— Bukalutnama ————— " — 2 — " — "

Batta for process ————— " — 4 — " — "

Bukhal's Fee ————— 1 — " — 10

Sectioner's Fee ————— 1 — 1 — " — 7 — 7 — 10

————— Rupees — 17 — 7 — " — "

By Respondent

In the Lillah

In the Moonisiff's Court ————— 9 — 11 — 4

—————"— Assistant Judge's ————— 5 — 4 — 10

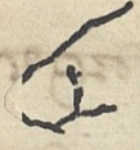
In the Sudder D. Adawlat: 15 — " — 2

Carried over Rupees — 15 — " — 2

Brought over Rupees \_\_\_\_\_ 15 -- 2

Stamp for Bukalutramas \_\_\_\_\_ 2 --

Bu Keel's fee \_\_\_\_\_ 1 -- 10



Rupees \_\_\_\_\_ 3 -- 10  
18 -- 1

17/3/62

M. Keeluck  
Paisae Judge

H. Keeluck  
Asst. Paisae Judge

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सुठिठिलसंधार  
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