

Bombay, Monday, 21st April 1862

In the Sudur



Dewanee Adawlat

N^o 4350, Special

Bapoo W^d Balaje Kooabee,
Resident of Yeola in the Patoda
District of the Ahmednuggur Lilla
(original Defendant) ————— } Appellant

Baba W^d Bhaoo Goojirath, #
Resident of Yeola in the Patoda Dis-
trict of the Ahmednuggur Lilla #
(original Plaintiff) ————— } Respondent

Rupees-321-4--

The claim in the original suit was to restrain the appellant Bapoo from setting up a silk loom in the town of Yeola, in infringement of Respondent's monopoly.

In appeal, N^o 212 of 1859, the Assistant Judge of the Lilla of Ahmednuggur affirmed with costs on Bapoo, the decree of the Moonsiff of Yeola, awarding the claim.

Dissatisfied, Bapoo made Special Appeal in the Sudur Dewanee Adawlat urging:-

1. That the Assistant Judge's decree was opposed to law, in that he decided that owing to the passing of the decree N^o 208 of 1852 the suit will not lie, whereas that decision is not applicable to this case because the appellant was not a party to it and it is not one of the highest Court and therefore the opinion

of the Assistant Judge for throwing out the Respondent's claim should have been acted on.

2 That by Act ~~XX~~ of 1839 and Act ~~XXX~~ of 1844 the ~~Acts~~ on all trades have been abolished and therefore the decision should not have been given contrary to the said Acts and the principles of Justice.

3 That the suit was barred by the law of limitation.

4 That the Koul and Admisaptra do not affect the appellant and do not provide that no one besides the Goozerathee people should follow the trade in dispute and have not been proved.

The Court reverse the decree of the Assistant Judge and remand the case in order to his deciding it on its merits, passing a new decree according to Law and awarding costs.

Bill of Costs

In the Sudur Dewanee Adalut

By Appellant

Stamps for the copies of decrees	_____	4-0-0
Ditto — Do. Bunkalmamas	_____	5-0-0
Ditto — Do. Security bond	_____	2-0-0
Batta for process	_____	0-8-0
1/4 Bunkel's Fee	_____	2-6-6
		<u>Papees — 13-14-6</u>

By Respondent

Stamps for Bunkalmamas	_____	4-0-0
Stamp for the petition to the Court for the early hearing of the application of S. Appeal	_____	2-0-0
1/4 Bunkel's Fee	_____	2-6-6
		<u>Papees — 8-6-6</u>

The Appellant
 H. Herbert
 Sudur Dewanee
 Adalut
 Attorney General

