

18/62
Bombay, Monday, 21st July 1862.

In the Sudder

Court



N^o 4357, Special

Abbaji Sukshmun, Koolkurnee, resident
of Pett Abhoni (original Plaintiff) } Appellant
//

Daji Walud Chimboo, Wani, resident of
Pett Abhoni (original Defendant) } Respondent
Rupees 75- - -

The claim in the original suit was to re-
cover possession of a house, or its value -
Rupees 75- - -

In appeal, N^o 204 of 1859, the
Judge of the Hillah of Khandesh reversed
the decree of the Moonsiff of Thengora and
threw out the claim of Abbaji, with costs.

Dissatisfied, Abbaji preferred a
special Appeal in the Sudder Court on
the grounds, that the decision in
special appeal N^o 2518 is inapplicable
to

to this case, the same applying only to cases in which the deceased's property is sold by his heirs without paying off his debts:- that the principle which should have governed this case is one which has been laid down in Special Appeal N^o 2918:- that a judgment does not bind property previous to attachment:- that in bond N^o 20 an express mention is made of the payment of the purchase money, the judge was therefore in error in holding that no such mention is made:- that as regards the bond N^o 3 it was not objected by the Respondent in the original Court, that the payments were not made:- that the decision in Special Appeal N^o 3526 does not apply to this case, since appellant having paid the purchase money to Gunga and obtained possession of the property from her, it was not obligatory on him to enquire whether Gunga had paid the purchase money to the original owner:- that the appellant filed a durkhast to have fifteen witnesses examined on his behalf, but the Moonsiff being satisfied of the correctness of the claim, did not examine more than seven of them. the judge therefore should have remanded ^{the case} in order to further evidence being taken if he were not satisfied

satisfied by the evidence already recorded.

The Court reverse the decree of the Zillah judge and remand the case in order to a fresh decision being given according to law. costs to follow the final decision.

Ex 31/7/62

Bill of Costs
In the Sudder Court

By Appellant

Stamp for the copy of decrees	— 2 —	— — —
— Ditto — Bukalutramas	— — —	— 4 —
— Ditto — for the supplementary	— — —	} 2 — — —
— Memo: of Sp: Appeal	— — —	
— Ditto — security bond	— 2 —	— — —
Watta for process	— — —	— 6 —
1/4 Bukkeel's Fee	— — —	— 9 —
		<u>Pupees — 7 — 3 —</u>

By Respondent

Stamp for the Bukalutramas	— 2 —	— — —
1/4 Bukkeel's Fee	— — —	— 9 —
		<u>Pupees — 2 — 9 —</u>

Ex 31/7/62

H. H. Hobbs
Puisne Judge
Skutock Forbes
A. K. Puisne Judge.

P. Justice

दिनांक २९ अक्टूबर १९६२ को
उप
की
में
द्वितीय भाग
४३५७

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