

In the High Court of Judicature, Bombay.

Thus day, the 21 day of April 1864

SPECIAL APPEAL No. 1 of 1864.

Tejmul and Soorajmul the latter Soorajmul separated and the former Tejmul deceased his sons and heirs Luchhimundadas and Gunesholas and Bhugwandadas of whom Luchhimundadas and Bhugwandadas separated of the Ahmednugur District (Original Plaintiffs) Appellants

versus

Khema wulud Sukooji Vagh of the Ahmednugur District Respondent

(Original Defendant)

Rs. 607-11-0

The claim in the Original Suit was to recover the amount due on a bond with interest

In Appeal No. 118/18 of 1863 the Judge of the District of Ahmednugur who had awarded Rs 203 by awarding Rs 192

A Special Appeal was preferred in the High Court on the grounds that there has been a substantial error in law in the procedure investigation of the case which has produced error in the decision of the case upon its merits in that

1<sup>st</sup> The Defendant having pleaded satisfaction  
of the bond ex: 3 the onus of proving his  
argument rested upon him, whereas the  
lower Court has thrown upon the ap-  
pellant the onus probandi in the case and  
2<sup>nd</sup> That the lower Court has presumed  
against the Appellant because he did  
not produce his books without ascertaining  
where the Books were in his power or posses-  
sion the fact being that the said books  
were not in his charge and that the  
extracts therefrom filed under ex: 2, 9 and  
42 were obtained by the Moonseff him-  
self.

The Court ordered the  
decrees of the Court below by  
awarding to the plaintiff Rs 86 as  
the principal of right and Rs 250 as  
due on the bond and Rs 250 as  
interest on the same with costs  
in proportion.

Amirach Forbes

R. Couch

Bill

