

In the High Court of Judicature, Bombay.

Mar day, the 20 day of Feb 1865.

SPECIAL APPEAL No. 1005 or 1864

Dhako bin Pandji of the Kon Appellant

Kon District (Original Defendant)

versus

Antaji Ramchandra of the Respondent

Kon District (Original Plaintiff)

Rs. 30 — 6

The claim in the Original Suit was to recover possession of a garden alleged to have been let to the Def. and to be wrongfully detained by him

In Appeal No. 146 of 1864 the Asst Judge of the District of the Kon at Panvel reversed the Decree of the Muzt Alibagh who had thrown out the claim by awarding eviction of the garden to Antaji

A Special Appeal was preferred in the High Court on the grounds that the decision of the Assistant judge is contrary to law. That a condition of sale in a mortgage deed has been held by simple lapse of time to bar the equity of redemption

redemption.

(a) The Assistant Judge wrongly overruled the valid objection raised by the appellant, that the suit was not laid at the proper amount under litigation.

It There is an error in law in the investigation of the case producing an error in the decision of the case upon its merits in that.

(a) The Assistant Judge reserved the right of the appellant to sue for the recovery of the sum of 300 Rs. from the opposite party, but the right to get possession of the garden in the event of success in such suit has not been accorded to him.

(b) The Assistant Judge did not allow the profits of the garden to be set off against the mortgage debt.

(c) The Assistant Judge omitted to decide whether Dhakoo was the tenant of Ganesh of the opposite party.

(d) That if an account be struck as in Special appeal No. 84 of 1866 a balance would be found in favour of the appellant.

(e) That the Assistant Judge erred in not allowing the interests and the profits recovered by the opposite party against his tenant as shown by High Court.

The Court confirms the decree of the Assistant Judge and

against the Defendant Shakoo  
and wishes the order making  
Emrich a Defendant and the  
decrees passed against him. Just  
on Shakoo

R. Couch

Hewitt,

A. M. Ward

MEMORANDUM OF COSTS incurred in Special Appeal No. 1005  
of 1864 against the decision of the Assistant Judge of the  
District of the *Konkan* and disposed of on the 20<sup>th</sup> February 1865  
by *Confirming the same with costs as regards*  
*Sept. Shekoo*

BY THE APPELLANT—

IN THE DISTRICT.

In the <i>Moonsiff's Court</i> —————	8	4	10		
In the <i>Asst. Judge's Court</i> —————	1	14	5		
				10	33

IN THIS COURT.

Stamp for Memorandum of Special Appeal .....	2	..			
Stamps for copies of Decree and Judgment .....	1	8	..		
Stamp for Vukalutnama .....	2	..			
Stamp of an application to enter the name of the Appellant's heir .....	3	..			
Batta for Process and Postage .....	1	4	..		
Sectioner's Fee .....	4	5	6		
Vukeel's Fee .....	"	14	5	11	15
				11	15

Rupees.... 22 3 2

BY THE RESPONDENT—

IN THE DISTRICT.

In the <i>Moonsiff's Court</i> —————	5	10	5		
In the <i>Assistant Judge's Court</i> —————	6	2	11		
				11	13

IN THIS COURT.

Stamp for Vukalutnama .....	2	..			
Vukeel's Fee .....	"	14	5	2	14
				14	14

Rupees.... 14 14 9



*[Handwritten Signature]*

*[Handwritten Signature]*

The 20<sup>th</sup> day of February 1865 Registrar