

In the High Court of Judicature, Bombay.

Friday, the 3<sup>rd</sup> day of March 1865.

SPECIAL APPEAL No. 1014. of 1864.

Dumaji bin Sivaji Mali of the  
Ahmednugur District at present  
living at Malim Bombay,

Appellant

(Original Plaintiff)

versus

Tatia bin Buliroo Bhugut  
of the Ahmednugur District

Respondent

(Original Defendant.)

Rs. 74-12-"

The claim in the Original Suit was to recover possession of a field  
mortgaged to the defendant for a fixed term  
which had expired and for the profits.

In Appeal No. 184 of 1863 the *Ag. Assis<sup>t</sup>. Judge*  
of the District of *Ahmednugur* at *Ahmednugur* reversed (on *app.*)  
the Decree of the *Sup<sup>r</sup>. J. of Sum<sup>r</sup>* who had awarded the claim.

A Special Appeal was preferred in the High Court on the grounds that (1) the *Assis<sup>t</sup>. Judge* erred in holding the agreement sued on invalid for want of consideration that (2) the *Assistant Judge* erred in holding there was no consideration for the agreement in question and that

that (3) the Assistant Judge erred in not awarding in terms of the agreement in question.

The Court finds that the Assis<sup>t</sup> Judge was wrong in holding that the agreement was not valid for want of consideration, but he should have determined <sup>of the question</sup> whether the agreement was in fact made.

The Court reverses the decree of the Assis<sup>t</sup> Judge and remands the case in order that he may determine the above question, and pass a new decree on the merits.

Costs to follow final decision.

R Couch

A. W. Warden

MEMORANDUM OF COSTS incurred in Special Appeal No. 10/4

of 1864 against the decision of the Assistant Judge of the District of Ahmednagar and disposed of on the 3<sup>rd</sup> March 1865 by remanding the same for retrial

IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment .....	3	8	"	✓		
Stamp for <sup>two</sup> Vukeelutnamas .....	4	"	"	✓		
Batta for Process and Postage .....	1	5	"	✓		
Sectioner's Fee .....	"	13	9	✓		
Vukeel's Fee one-fourth .....	"	8	11	✓		
			10	3	8	✓
Rupees .....			10	3	8	✓

BY THE RESPONDENT—

Stamp for Vukeelutnama .....	2	"	"	✓		
Vukeel's Fee one-fourth .....	"	8	11	✓		
			2	8	11	✓
Rupees .....			2	8	11	✓



Registrar

Sealer

The 3<sup>rd</sup> day of March 1865.

Issued a certificate on Her Majesty's Treasury  
the Bank of Bombay for the refund of Rs (8)  
eight being the value of stamp used for Special  
Appeal in this case.

3<sup>rd</sup> March 1865

*R. M. S.*  
Registrar.

*ex*  
*AP*

*Certificate given to Bank of Bombay*

*Registrar*

*Bank of Bombay  
3<sup>rd</sup> March 1865*