

In the High Court of Judicature, Bombay.

Wednesday, the 29 day of March 1864.

SPECIAL APPEAL No. 1017 of 1864.

Manackchand Mulud

Hissundas Gooyur of the Solapoor Division of the Poona District (Original Plaintiff) Appellant

versus

Heerachund Mulud Hissundas Gooyur of the Solapoor Division of the Poona District (Original Defendant) Respondent

Rs. 300-0-0

The claim in the Original Suit was to recover possession of part of a house in which Plaintiff had given his brother permission to live, and which the latter refused to vacate.

In Appeals No. 237 X 238 of 1862 the Jct. Judge of the District of Solapoor at Solapoor confirmed the Decree of the Munsiff at Parus who had decreed Plaintiff to be the owner of the house, but found that he could not oust Defendant.

A Special Appeal was preferred in the High Court on the grounds that Substantial errors in law in the investigation of the case have been made which have produced errors in the decision of the case upon

upon its merits.

1<sup>st</sup> In that the District Judge having — held that the Appellant is the proprietor of the ground, was in error in not awarding the same to him.

2<sup>nd</sup> In that according to the law of fixture any thing which is attached to the Soil goes with it. The District Judge was therefore in error in not awarding the house as claimed.

3<sup>rd</sup> That the District Judge was in error in admitting Exhibit Nos. 7, 8, 9, 10 and 11, in evidence against the Appellant.

4<sup>th</sup> In that in the absence of any special Agreement to the contrary, it is competent for the owner to turn out the tenant or other persons occupying land at any time.

The Court find that the suit has been decided upon documents illegally admitted, & that witnesses whose evidence was adduced in the Court of first instance were not examined.

The Court therefore reverses the Decree of  
the Acting Judge & remands the suit in  
order that the evidence of the witnesses  
mentioned in the application recorded  
No 14 in the suit, may be taken, &  
that a new decision may be passed  
on the merits awarding costs.

Attestock Forbes.

Newton.

MEMORANDUM OF COSTS incurred in Special Appeal No. 1017

of 186 4 against the decision of the Judge of the District of Poona and disposed of on the 29<sup>th</sup> March 1865 by remanding the same for retrial.

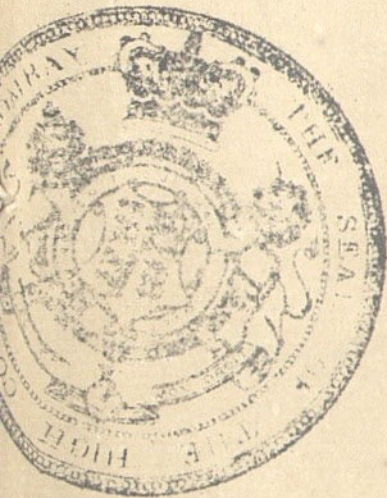
IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment .....	3	..	..		
Stamp for <sup>two</sup> Vukeelutnama .....	4	..	..		
Batta for Process and Postage .....	1	8	..		
Sectioner's Fee .....	1	3	..		
Vukeel's Fee one-fourth .....	2	4	..		
				11	15
				Rupees	11-15

BY THE RESPONDENT—

Stamp for Vukeelutnama .....	2	..	..		
Vukeel's Fee one-fourth .....	2	4	..		
				4	4
				Rupees	4-4



*R. West*  
Registrar

*W. D. ...*  
Sealer

29<sup>th</sup> day of March 1865.



मुंघरिचिचीरनायाधीमरीचलमेडतांत.

~~सोडाचिचीरनायाधीमरीचलमेडतांत~~ ७११०६

सोडाचिचीरनायाधीमरीचलमेडतांत ७११०६

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थीचिचिचि

(मुकभाळ)

प्रतीपक्षी

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~~सोडाचिचीरनायाधीमरीचलमेडतांत~~

गीतपोडेंग

(मुकभाळ)

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1. ~~पुस्तकपालिकासंग्रहालय, काठमाडौं, नेपाल~~

~~संस्कृत~~

~~श्री १०८ श्रीगणेशाय नमः~~

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~~Dr. Mahesh Chandra~~

~~S. D. Sharma~~

Translated by  
Dr. Phulekar  
Bang

