

In the High Court of Judicature, Bombay.

Monday, the 15 day of August — 1864.

SPECIAL APPEAL No. 107 — OF 1864.

Shookleshwar Rughoonath deceased his son and heir (Satis) alias Rughoonathbhat Thombre and Aja bin Megsham deceased his son and heir Raghoojoshi broode of the Ahmednagar District (Original Plaintiffs) — Appellants

(Original)

Dajibhat bin Bhatumbhat <sup>versus</sup> deceased his sons and heirs Ramchandr and Balkrishna and Nana Nana a minor by his brother and guardian Balkrishna and Nityant bin Rughoonath and Nana bin Bhatumbhat deceased his sons and heirs Ramchandr and Shridhar. Shridhar a minor by his brother and guardian Ramchandr and Mohabbat bin Chulki and Mohabbat and Bhatumbhat bin Rughoonath and Mohabbat deceased his nephew and heir Bhatumbhat bin Mohabbat Chowdhuri of the Ahmednagar District (Original Defendants) — Respondents

Rs. 2000 — " — "

The claim in the Original Suit was to establish title to receive all the dues paid by visitors to the Gunga at Copergaon

In Appeal No. 255 of 1862 the Judge of the District of Ahmednagar at Ahmednagar reversed the Decree of the Judge of Yebla who had thrown out the claim awarding costs, and directed each party to bear his own costs.

A Special Appeal was preferred in the High Court on the grounds that the decision of the Judge appealed against was as follows: (1) The Judge is wrong in point of law in holding that clause I section XXI Regulation II of 1827 bars the cognizance.

Co-gnizance of such claims as the present, it not being a question of caste but a question of right to receive certain fees of Office as gram goshees and Tirth Copadhyas. (2) The <sup>District</sup> Judge is wrong in point of law in deciding against the Plaintiffs on the ground of supposed inconvenience to pilgrims going to the Godamure for the performance of the ceremonies enumerated in the plaint the only question before him being not whether it would be convenient or otherwise to allow the fees claimed by the Plaintiffs for those ceremonies but whether the Plaintiffs had a right to get those fees. (3) The <sup>District</sup> Judge is wrong in point of law in holding that the litigation going on between the parties to this suit has destroyed all hereditary right (4) The <sup>District</sup> Judge is wrong in receiving further evidence and thereupon deciding that the Plaintiffs who are Yajurvedi Bramans are not valid functionaries for the Rigvedi Bramans, former decrees of Courts of competent jurisdiction having declared their right as Vithundar and the Defendants themselves having admitted the same in Exhibit No. 105. (5) That the <sup>District</sup> Judge is wrong in holding any imaginary ~~religious~~ religious scruples in the minds of the Ashwalein Bramans to the employment of the Plaintiffs for the performance of the ceremonies enumerated in the Plaint to be a sufficient ground for disallowing the Plaintiffs' right to receive the fees of the Office that right having been determined by Courts of competent jurisdiction and the said ceremonies being such as may be performed by deputies (6) The <sup>District</sup> Judge is wrong in deciding points not referred to him by the late Sudder Court in their order remanding the case in 1857.

The Court, Mr. Justice Newton dissenting confirms the decree of

To District Judge with costs  
on Special Appellant.

Joseph Arnold

Appellant.

Secy and Clerk of Court

MEMORANDUM OF COSTS incurred in Special Appeal No. 107.

of 1864 against the decision of the Judge of the District of Ahmednagar and disposed of on the 15<sup>th</sup> August 1864 by Confirming the same with Costs

BY THE APPELLANT

In the District.

In the Mooniff's Court .....	342	12	6	✓		
In the Judge's Court .....	1	"	"	✓		
			343	12	6	✓

In this Court.

Stamp for Memorandum of Special Appeal .....	100	"	"	✓		
Stamps for copies of Decree and Judgment .....	5	"	"	✓		
Stamp for Vukeelutnama .....	4	"	"	✓		
Batta for Process and Postage .....	17	12	"	✓		
Sectioner's Fee .....	3	16	"	✓		
Vukeel's Fee .....	60	"	"	✓		
			189	13	6	✓
Rupees .....	533	10	"	✓		

BY THE RESPONDENT

In the District.

In the Mooniff's Court .....	403	11	"	✓	
In the Judge's Court .....	15	8	"	✓	
			553	"	✓

In this Court.

Stamp for Vukeelutnama .....	2	"	"	✓	
Vukeel's Fee .....	60	"	"	✓	
			62	"	✓
Rupees .....	67	3	"	✓	



G. L. Sumner

For Acting Registrar

G. L. Sumner

For Sealer

The 15<sup>th</sup> day of August 1864