

In the High Court of Judicature, Bombay.

This day, the 29 day of April 1864

SPECIAL APPEAL No. 112 OF 1864.

Mahadaji Keshuv Phatak
of the Konkan District

(Original Plaintiff)

Appellant

versus

Gunesh Keshuv Phatak of the Konkan
District _____
(Original Defendant.)

Respondent

Rs. 40-11-11

The claim in the Original Suit was to enforce the terms of an agreement for a lease of a house and ground on payment of Rs. 40

In Appeal No. 392 of 1863 the Assistant Judge of the District of the Konkan at Tanva confirmed the Decree of the Magistrate who had thrown out the claim as barred by the Limitation Act

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the Assistant Judge is against law in that

The lower Court should have raised and decided

decided the following issues which it has not:-

- (a) By what title does the Plaintiff (appellant) claim the disputed property?
- (b) Does the time of paying the 40 Rupees form an essential as well as an equitable part of the release No 3?
- (c) Whether the Defendant (Respondent) is not virtually a vendor in equity and can he as such show a sufficiently long adverse possession to bar the present claim?

The Court
reverses the decree of the Court
below and remands the cause
for retrial and a new decree
on the merits to follow
the final decision

R. Couch

H. J. Fisher,

Bill of Costs

In this Court

By the appellant

Stamps for copies of decree & Judgt^s — 1 8"

D^o for two Vakalatnames — 4 "

Batta for Procs & Postage — 1 2 "

Sectioner's Fee — " 15 "

Witness's Fee one fourth — " 4 9 "

7 13 9

Rupees 7 13 9

By the Respondent

Stamp for Vakalutana ————— 2 ..

Vakceli Fee one fourth. ————— " 4.9

2.4.9

Rspees 2.4.9



West
Sealer

West
Registrar

The 29th day of April 1864.

I sued a certified on Her
Majesty's Treasury Bank of
Bombay for the refused of
Rspees four (4) being the
value of the stamp for the
Special app^l in this case.

29th April 1864

West
Registrar

Ed
1864