

In the High Court of Judicature, Bombay.

Wednesday, the 14th day of September 1864.

SPECIAL APPEAL No. 115 of 1864.

Karzi Ali Wulud Karzi Soob Kulipay
of the Putuagiri Division of the
Konkan District

Appellant

(Original Plaintiff)

versus

Karzi Soob alias Baba bin Karzi
Ali and Karzi Ahmed alias Shabji
bin Karzi Ali of the Putuagiri
Division of the Konkan District
(Original Defendants)

Respondents

Rs. 13/4 - - -

The claim in the Original Suit was to recover a share in some
vacant lands, and mesne profits for 6 years

In Appeal No. 251 of 1861 the Act. Sen. Assist. Judge
of the District of the Konkan at the det. etc. Putuagiri reversed
the Decree of the mag. Rajison who had decreed for the Plaintiff
with the exception of the mesne profits.

A Special Appeal was preferred in the High Court on the grounds that (1) a

substantial error in law in the investigation
of the case has been made which has produced
error in the decision of the case upon its
merits

merits in that the decision is opposed to the principle laid down in Special Appeal No. 2493. in as much as a division could be enforced and possession awarded of lands allotted for the expenses of the Mosques that (2) the Senior Assistant Judge was in error in not enforcing division on the grounds that the Sunnids do not contemplate or authorize any allotment of the land whereas there is nothing in them to prevent division and usage of the country sanctions such division that (3) according to Mohomedan law a Sharer is entitled to a Share the Senior Assistant Judge was in error in throwing out the claim that (4) the Senior Assistant Judge has misunderstood the nature of the claim in as much as the appellant has brought this action to enforce division on behalf and for the benefit of the two Mosques of which he is the "Feshw⁺ Inam" and the Senior Assistant Judge was in error in not holding the claim to be of that nature ~~and~~ that (5) the Senior Assistant Judge was in error in ruling that no division can be enforced in lands given jointly for the benefits of 5 Mosques at the instance of the manager of one of them and that (6) material questions at issue

issues are kept undecided viz: 1st was the appellant in possession of the land in dispute as alledged by him and held by the Moonsiff? 2nd Did the Defendants disburse sufficiently for the support of the Mosques.

The Court confirms the Decree of the acting Senior Appellate Judge with costs on Special Appellant

Joseph Arnold
Abraham Forbes.

[Signature]

Bill of Costs

By the Appellant
In the District

In the Moonsiff's Court ————— 141.11.6
 In the Senior Appellate Judge's Court (including v. fee) 40.14.9
 182.103

In this Court

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Sectioner's Fee	1	5.6
Vukcel's Fee	39	6.9
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By the Respondents

In the District

1569
22/9

In the Mooniff's Court (including V. fee) 59.2.6

D^o Senior App^l Judges Court 94.99 153.12.3

In this Court

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W. J. ...
For Acting Registrar

W. J. ...

In Sealers

The 14 day of September 1864.