

In the High Court of Judicature, Bombay.

Fri day, the 8th day of July — 1864.

SPECIAL APPEAL No. 117 OF 1864.

Balambhatt bin Govind-
bhatt Sheriff of the Konkan
District (Original Plaintiff)

Appellant,

versus

Bhawan Bababhatt and
Sadashiv and Wassodeo
Govindbhatt of the Kon-
kan District
(Original Defendants)

Respondents,

Rs. 6-12-5-

The claim in the Original Suit was to obtain plaintiffs
4th share of his family lauded property in
virtue of his separation from his family

In Appeal No. 365 of 1861 the Joint Judge assessed
of the District of Thonkon at Lana assessed
the Decree of the Moonsiff of ^{Stibay} who had awarded the claim
and ordered that the plaintiff should be put
into possession of a share of the ancestral field
Bahani alone & not of the other fields

A Special Appeal was preferred in the High Court on the grounds that (1) the
decision of the Joint Judge is contrary
to law in that he has misconstrued Ap-
pellants' plaint in holding there was
therein

therein an admission by Appellant that he had separated from Respondents, & that (3) the Joint Judge was in error & in holding that any separation as required by Hindu Law had taken place under the circumstances, that (3) the Joint Judge was in error in holding that because separation had taken place, the property said to have been acquired & subsequent to separation, was not subject to partition there having been no actual division at the time of the alleged separation; that (4) the Joint Judge has not given his reasons for holding certain of the property sued for to have been acquired subsequent to separation; and that (5) the appointment of Joint Judges in the Bombay Presidency being by statute, and all the requirements of that statute not having been complied with in the appointment of the Joint Judge who tried this case, his decision is an absolute nullity he having acted without Jurisdiction.

The Court confirm the decree of the joint judge with costs on Special Appeal.

H. P. C. Fisher,

Attorney at Law

Bill

Bill of costs
By the Appellant
In the District

In the Mooniffs Court	_____	6. 13. 3.	
D ^o Joint Judges Court	_____	1. 1. 1.	7. 14. 4.
In this Court			
Stamp for Memo: of Special app ^l	_____	1. " "	
Stamps for Copies of decree & judgment	_____	3. " "	
D ^o for Vukalutuanas	_____	4. " "	
Batta for Process and Postage	_____	1. 9. "	
Sctioners Fee	_____	1. 7. 10	
Vukuels Fee	_____	" 3. 3.	11. 4. 1.
		<u>Rupees</u>	<u>19. 2. 5</u>

By the Respondents
In the District

In the Mooniffs Court (including V. Fee)	_____	3. 11. 3.	
D ^o Joint Judges Court	_____	3. 4. 2.	6. 15. 5.
In this Court			
Stamp for Vukalutuanas	_____	2. " "	
Vukuels Fee	_____	" 3. 3.	2. 3. 3.
		<u>Rupees</u>	<u>9. 2. 8.</u>



E. J. J. J.
Acting Registrar

E. J. J. J.
Sealer

The 8th day of July 1864.