

Poona & Solapur

In the High Court of Judicature, Bombay.

Wednesday, the 10 day of March 1864

SPECIAL APPEAL No. 130 of 1864.

Ramshet bin Gopalshet Shete
of the Poona District

Appellant

(Original Plaintiff)

versus

Tookaram bin Mulshet and Mir
Akbur Ali wulud Sayud Mu-
hammad of the Poona District

Respondents.

(Original Defendants)

Rs. 2 = 2 = 8

The claim in the Original Suit was to recover a share of certain heres
Land situated in the Village of Challen, alleging that the Deft. Solle.
:- had taken possession of the land during the minority of the Plf.

In Appeal No. 905 of 1862 the Acting Judge
of the District of Poona at Poona advised

the Decree of the Jc. Moq. at their who had decreed for the Plaintiff
by which that the share in the land claimed is the property of the Respondent-
declared that the land is liable for the mortgage, & that the Deft. (Ramshet)
cannot enter into possession until the mortgage is paid off

A Special Appeal was preferred in the High Court on the grounds that (1) the
decision of the Acting Judge is contrary to
law, in that the debt said to have been
due on the bond N. 6 having been barred

by

by the law of limitation the Respondents had no occasion to pay it and therefore the Appellant could not be made liable for the Respondents' act in having paid off the said debt: that (2) the decision of the acting judge is contrary to usage having the force of law in that he has not found what was the amount of the mortgage which the Appellant should pay before obtaining possession of the land wherefore the decision is contrary to the practice of the Court in such cases: that (3) the Respondent Tookaram having contracted the debt in dispute during the Appellant's minority, the onus of proving that it was incurred for necessary and good purposes should have been thrown on the Respondent as ruled in Special Appeal N. 286 of 1862 and that (4) a substantial error in law has occurred in the investigation of the case, which has produced an error in the decision of the case on its merits in that the acting judge has, contrary to the ^{pleadings} proceedings in the case, held that it was not disputed that the debt was not ancestral.

The Court confirms
the Decree of the D. Judge with

out prejudice to
~~right~~ Plaintiff Ramsdell's right
to redeem the lands on payment of the
mortgage ~~afforded~~
to sub, on the Bond, costs n. sp.

appd

Attest
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Attest

MEMORANDUM OF COSTS incurred in Special Appeal No. 130

of 186 4 against the decision of the Acting Judge — of the District of Poona and disposed of on the 8th March 1865 by confirming the same with costs.

BY THE APPELLANT—

In the District.			
In the Moonsiff's Court	2. 13..		
In the Judge's Court	1. 1..		3. 14..
In this Court.			
Stamp for Memorandum of Special Appeal	1 .. "		
Stamps for copies of Decree and Judgment	1. 8..		
Stamp for Vukeelutnama	2 .. "		
<i>Stamp for applications to cancel the names of the respondents here.</i>	2 .. "		
Batta for Process and Postage	2. 10..		
Sectioner's Fee	1. 14..		
Vukeel's Fee	" 1 "		11. 1..
		Rupees....	14. 15..

BY THE RESPONDENT

In the District.			
In the Moonsiff's Court (including Rs. 5)	4. 7..		
In the Judge's Court	3 3. 6		7. 10. 6
In this Court.			
Stamp for Vukeelutnama	2 .. "		
Vukeel's Fee	" 1 "		2. 1..
		Rupees....	9. 11. 5



W. J. ...
 Sealer

R. West
 Registrar

The 8th day of March 1865.