

In the High Court of Judicature, Bombay.

Mon day, the 4<sup>th</sup> day of July 1864.

SPECIAL APPEAL No. 135 of 1864.

Trimbuk Hurri Gudre deceased his sons & heirs Lukshmun and Vishvunath and Bhargav minors by their uncle and guardian Ramchundr Hurri Gudre of the Rutnagiri Division of the Konkan District Appellants,

(Original Defendants)

<sup>VERSUS</sup>  
Pandurao bin Lukshmunrao Rane a minor by his mother and guardian Motege Kom Lukshmunrao bin Pawajirao of the Rutnagiri Division of the Konkan District Respondent

(Original Plaintiff)

Rs. 42-6-7

The claim in the Original Suit was to recover possession of a 20<sup>th</sup> share of the Khate village of Baroudee.

In Appeal No. 24 of 1861 the Senior Assistant Judge of the District of Konkan at Rutnagerry affirmed the Decree of the Mof of Baroudee who had awarded the claim.

A Special Appeal was preferred in the High Court on the grounds that (1) the said decree, <sup>of the Senior Assistant Judge</sup> is contrary to usage having the force of law in that the Court below holding that the Moonsiff of Hurnee was wrong in rejecting the mortgage accounts for want of stamp nevertheless did not enter into

into an inquiry into the mortgage account in order to ascertain what is the balance due at foot thereof and did not examine the accounts Nos 4.5, 47 and 48 containing the items for which bonds Nos 6, 7, and 45 were duly executed and which the Court has not discredited or thrown out as spurious: that (2) - the issues raised by the Petition of Appeal whether the claim was under estimated and whether the claim had been paid off by the profits to any and what extent and whether a release was given to the Plaintiff have not been decided by the Court below: that <sup>(3)</sup> the Court below has misapprehended the statements of the parties in considering the guardian ad litem of the Plaintiff to be in possession of the mortgaged property which together with the bond is in the possession of the Defendant as appeared by ~~the~~ Exhibits Nos 1 and 26 which the Court took no notice: and that (4) the Court below failed to give the reasons of his judgment for which he refers to a totally different case the facts and merits of which are not similar to those of the present and ought not to have imported his knowledge of that case into the investigation of the present one.

Decree of the Senior Assistant.

Judge confirmed with costs.

4<sup>th</sup> July 1869.

Joseph Arnold  
Clerk.

*Bill of Costs*  
*By the Appellants*  
*In the District*

*In the Moonseiff's Court (including 1/2 fee) — 24 9.4*  
*D<sup>o</sup> Senior Assistant Judge's Court — 7 " 4*  
31.9.8

*In this Court*

|  |               |                 |
|--|---------------|-----------------|
| <i>Stamp for Memo. of Special appeal —</i>           | <i>4 " "</i>  |                 |
| <i>Stamps for Copies of decrees &amp; judgment —</i> | <i>3 " "</i>  |                 |
| <i>Stamp for Vukalaturamce —</i>                     | <i>2 " "</i>  |                 |
| <i>Batta for Process and Postage —</i>               | <i>1.3. "</i> |                 |
| <i>Sectioners Fee —</i>                              | <i>1.5. 6</i> |                 |
| <i>Vukal's Fee —</i>                                 | <i>1.4.4</i>  | <i>12.12.10</i> |

Rspees. 44.6.6

*By the Respondent*  
*In the District*

*In the Moonseiff's Court — 27.12.10*  
*D<sup>o</sup> Senior Assistant Judge's Court — 1.12.4*  
29.9.2

*In this Court*

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|----------------------------------|--------------|--------------|
| <i>Stamp for Vukalaturamce —</i> | <i>2 " "</i> |              |
| <i>Vukal's Fee. —</i>            | <i>1.4.4</i> | <i>3 4 4</i> |

Rspees. 32.13.6



*C. M. M.*  
*Acting Registrar*

*C. M. M.*

*Sealed*  
*The 4<sup>th</sup> day of July 1864*