

In the High Court of Judicature, Bombay.

Monday, the 14 day of July 1864.

SPECIAL APPEAL No. 15-5 of 1864.

Pandoorung Keshu, deceased
his son and heir Kooshaba Rane
of the Konkun District

Appellant

(Original Plaintiff)

^{versus}
Mudna Keshu Rane, deceased his sons
and heirs Lukshmun and Ramchund
and Purushram Keshu Rane, de-
ceased his son and heir Bhikoo and
Abai Keshu Rane, deceased his sons
and heirs Damodur and Daji minor
by their mother and guardian
Goonjibai of the Konkun
District

Respondent

(Original Defendants)

Rs. 108 - - -

The claim in the Original Suit was to establish a right to a share
in the remainder attached to the Pa.
of the ~~Patil~~ ~~Wuttun~~ of handgann.

^{was}
In Appeal No. 2684 of 1833 the ~~Assistant Judge~~
of the District of ~~the Poollau~~ at ~~Lanaga~~ ~~preuded~~
the Decree of the ~~Magistrate~~ ~~who~~ ~~had thrown~~ ~~at the claim~~ ~~no~~
each party to ~~take~~ ~~his~~ ~~own~~ ~~facts~~. ~~He~~ ~~ordered~~ ~~the~~ ~~Plain~~ ~~tiff~~
to bear all costs.

A Special Appeal was preferred in the High Court on the grounds that (1) the decree
of the Assistant Judge is contrary to law in that
the income sued for, that is to say, the income
arising from the Patilkee (Wuttun), not being
divided, and having continued undivided,
the

the Respondent could not (be said to) have had the sole enjoyment. whereas the appellants' claim has been thrown out by the appellate court, having held the Respondent to have had the sole enjoyment. Therefore the decree of the appellate court is contrary to section 1 of Regulation V of 1827: that (2) the decree of the Assistant Judge is contrary to usage having the force of law in that the Respondent's father and the Appellants' father having been brothers, the Appellate Court's decision that the Appellant had no share in the ancestral property is contrary to Hindoo Law and the custom of the country: that (3) a substantial error in Law in the investigation of the case has produced an error in the decision upon the merits of the case, in that though the income sued for be entered in the Government (Records) in the sole name of the Respondent yet the family of (which) both ^{(are members) being} the parties (~~Respondents~~ ^{Respondents}) ~~undivided~~ ^{the (Respon)} enjoyment that has been, cannot prove his ownership; therefore it is an error to have rejected the appellants' claim on the ground that it was barred by the statute of Limitations: and that (4) the original court having laid down a point concerning the separation (or non-separation) of the family it is an error to have come to a decision without an investigation of that point.

PL

The Court confer the
decre of the S. J. with costs
on Sp^l appeal

H. K. M. S.

Samudra Sanyal

Bill of Costs.

By the Appellant.

In the District.

In the Moonsiffs Court	23.6.10	
- Do - Judge's Court	15.1.10	
		38.8.8.

In this Court.

Stamp for Memo: of Special Appeal	8-0-0
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Stamps for copies of Decree and judgment	3-0-0
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Stamp for vukalutnama	2-0-0
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Batta for Process and Postage	3-7-0
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Sectioner's Fee	1-3-0
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vukel's Fee	3-3-10
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20.13.10

Ruppes 59.6.6

By the Respondent.

In the District.

In the Mooniff's Court — 14. 14. 10

Do Judge's Court — 7. 11. 11

22. 10. 9.

In this Court.

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To be trans
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Rupees 22-10-9



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Gyane
Acting Registrar

Gyane
Sealer

The 14th day of July 1864