

Poona & Solapur

In the High Court of Judicature, Bombay.

Mon day, the ~~eighteenth~~ day of July 1864.

SPECIAL APPEAL No. 169 OF 1864.

Vitor bin Khundoo of the Poona

District

(Original Plaintiff)

Appellant

versus

Martand Huri Pithe of the

Poona District

(Original Defendant)

Respondent

Rs. 64-0-0

The claim in the Original Suit was to recover possession of some Miras land.

In Appeal No. 962 of 1862 of the District of Poona the Decree of the Moonsiff of

the acting Judge at Poona amended who had decreed that on the payment of Rs. 207-7-8 the debt shall be over the land to the Plaintiff declaring at the same time that the debt were the debt property & decreed that Martand the Plaintiff & Vitor bin Khundoo should be restored to the land. The sum of Rs. 182-9-0 for which account the land was decreed, as well as the sum of Rs. 24-9-8 for which a separate decree had been obtained.

before receiving the land

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 he has erroneously awarded a larger amount of interest than principal: that (2) the Acting Judge has failed to decree an account

account between the parties Respondent being  
admittedly in possession of the land for a  
great many years: that (3) the Acting  
Judge has erroneously awarded Respondent  
the Timber now standing on the land in dispute:  
that (4) the Acting Judge has erroneously de-  
clared the land in dispute liable for the  
amount of previous decrees: that (5) there  
has been 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, in that the  
Acting Judge has failed to make any  
award with respect to the mesne profits  
claimed by Appellant, tender of the a-  
mount due on the mortgage being proved.

The Court reverse the Decree of the  
Acting Judge, and remand the cause  
in order that he may take an account  
of principal & interest for 6 years  
before the filing of <sup>the</sup> suit and on  
the principal at the same rate  
from that time to the taking of the  
account, and that an account  
may be taken of rents & profits  
from the filing of the suit to the  
time of taking the account.

and the amount deducted  
~~from~~ <sup>from</sup> what is due for principal &  
interest as above. - Costs to follow  
the final decision. - Let the  
Court below pass a Decree for  
redemption on payment of the  
Balance within 6 months from  
the date of the Decree with interest  
at 9 per cent per annum  
until payment. The Plaintiff  
unless he pay within the time  
specified to be foreclosed.

With respect to the Balance  
the Judge will take special care  
that no greater sum is awarded  
as arrears of interest than  
the amount found to remain  
due as principal -

Joseph Arnold  
Clerk.

*[Signature]*

Bill of costs

In this Court

Received  
To be transferred  
19/7  
To and dated  
25/7

By the Appellant

Stamps for Copies of decrees & judgments	3	"	"	
Stamp for Vukhalulnaua	2	"	"	
Patent for Process and Portage	1	-	1	"
Sectioner's Fee	"	15	9	
Vukhel's Fee one fourth	"	7	8	
				<u>7 8 5</u>
				<u>Rspees 7 8 5</u>

By the Respondent

Stamp for Vukhalulnaua	2	"	"	
Vukhel's Fee one fourth	"	7	8	
				<u>2 7 8</u>
				<u>Rspees 2 7 8</u>



*E. G. M.*  
Sealed

The 18<sup>th</sup> day of July 1864

*E. G. M.*  
Acting Registrar

I paid a certificate on Her Majesty's Treasury Bank of Bombay for the refund of Rupees four (4) being the value of the stamp used for special appeal in this case.

18<sup>th</sup> July 1864

*E. G. M.*  
Acting Registrar

*E. G. M.*