

In the High Court of Judicature, Bombay.

Thursday, the 25 day of August 1864.

SPECIAL APPEAL No. 172 OF 1864.

Ravji and Suntoo Wulud Sudaashie  
Mali Mhetre of the Solapoor Dis- } Appellants

trict \_\_\_\_\_ (Original Defendants)

versus

Ravji Narayun Koolkurni deceased  
his sons and heirs Gopal and Daji of  
these Daji a minor by his brother &  
guardian Gopal Ravji Koolkurni } Respondent  
of the Solapoor District \_\_\_\_\_

\_\_\_\_\_ (Original Plaintiff -)

Rs. 74 - 12 - "

The claim in the Original Suit was to recover possession of  
six acres of thirty four guntas of land, together  
with a wall of some trees.

In Appeal No. 115 of 1864 the Judge  
of the District of Solapoor at Solapoor on a revision  
of the Decree of the Mofussil Court who had awarded the  
claim.

A Special Appeal was preferred in the High Court on the grounds that (1) a sub-  
stantial error in law in the investigation of the  
case has produced an error in the decision upon the  
merits of the case in that survey No. 144 continuing  
in

in the name of the Appellants as occupants the  
Appellate Court's decision awarding the Respon-  
dent a half share of it, notwithstanding that  
he is no relation of the Appellants ought not  
to have been passed: that (2) Exhibit N<sup>o</sup> 22 one  
of the papers [Accounts] of the village prepared  
and presented by the Respondent, as being the Koolkurmi  
of the village, to show that he was a co-sharer in the  
disputed ground, not being an admission on the  
part of the Appellants, the Appellate Court ought  
not to have allowed the claim: that (3) though  
it was originally a point (for investigation)  
the case as to how the Respondent made out  
his proprietorship to the land in dispute, and  
whether he had at any time enjoyment or not  
it was not laid down at all: and that (4) though  
not a single person has been examined as a  
witness on the part of the Respondent, in the  
original suit and though the purpose for which  
this Court remanded the case has not been ful-  
filled, yet the claim has been awarded.

~~The Court here of opinion that the Court~~  
~~has misinterpreted the deposition~~  
~~in its part of partnership for~~  
~~the case of the Respondent. The Court in~~  
the decree of the D. J. and Sheriff

showed in favor of the Def<sup>t</sup>  
The Plaintiff bears all  
costs.

1791

Leicester Wagoning

MEMORANDUM OF COSTS incurred in Special Appeal No. 172

of 1864 against the decision of the Judge of the District of Solapur and disposed of on the 25<sup>th</sup> Aug<sup>r</sup> 1864 by reversing the decrees of the lower Courts and awarding in favour of Defendant.

BY THE APPELLANT

In the District.			
In the Moonjeff's Court (including Fee)	5	11	11
In the Judge's Court	13	8	11
			18 12 10
In this Court.			
Stamp for Memorandum of Special Appeal	8	"	4
Stamps for copies of Decree and Judgment	2	8	"
Stamp for Vukeelutnama	2	"	4
Batta for Process and Postage	1	3	"
Sectioner's Fee	1	1	"
Vukeel's Fee	2	3	11
			16 15 11
		Rupees	35 12 9

BY THE RESPONDENT.

In the District.			
In the Moonjeff's Court	15	"	5
In the Judge's Court	25	"	4
			40 " 9
In this Court.			
Stamp for Vukeelutnama	2	"	"
Vukeel's Fee	2	3	11
			4 3 11
		Rupees	44 4 8



Sporne  
Sealer

Sporne  
Acting Registrar

The 25<sup>th</sup> day of August 1864.

મુંઘઈએચીરખ્યાયાથીઠરીઘઇમેડતાં.

~~૧૩ વૈશાખ તારીખ અમદાવાદ ૧૭૯૨~~

~~સ્વેચ્છીએચીરખ્યાયાથી ૧૭૯૨~~

~~૧૭૯૨~~ } અધીરંગ

~~૧૭૯૨~~

(મુલ. ૧૭૯૨)

પ્રતીવક્ત્રી.

~~૧૭૯૨~~

~~૧૭૯૨~~ } ગી૩યોડેંગ

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(મુલ. ૧૭૯૨)

સમયે ૧૭૯૨

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~~Translated by~~

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True Translation

Attest  
Pet. Assesst Registrar

1850

1850

In our mule called "Shake" leading  
the "Che", of which <sup>we</sup> half is yours, and  
the other half is mine, I shall work

I shall set apart one third of the  
produce as it is collected & stacked  
as "Butare" share - of this share

I shall give you <sup>one</sup> half -  
You shall pay ~~out~~ <sup>half</sup> of the  
expenses due to you & I shall dis-  
burse the other half. - I shall  
take the remaining two shares  
(2 thirds of the produce), for my  
labor. I shall send for you &

make over to you at due time  
your sixth share of whatever  
may be the produce of the "mule"  
both Khoreh & Rubee including  
even fallen leaves - I shall make

~~no objection - we shall jointly  
find "Mot' Nara" (Leath Basket  
& Rubee, Seed & Rubee)~~

I shall make no objection -  
The changes connected with  
the mule "Uyf" those on  
account of "Mot' Nara" (Leath

Bracket & Robt), I will, and  
Mulate. I shall only be ~~quitting~~  
leave by <sup>the</sup> ~~the~~ changes in  
cost of Brooks with it  
be defrayed by myself. You  
shall not be liable for them.

I shall make over (to you)  
the whole of the proceeds of  
the "Bank" in liquidation  
of your debt. I shall not  
give it to any other person  
until you debt has been  
paid off - ~~and~~ If perhaps  
I, nevertheless, I give the  
proceeds to any other person,  
you are at liberty to take  
it from such person without  
liability for instructions from  
me - I shall make no  
objection to this.

Rowjee and Suntoo w<sup>d</sup> Sudashin

Appellant

versus

Rowjee Narayan

Respondent

No. 115 of 1859

Vrunkutras

Serwajee Barsee  
Court.

Rughoonath Mool.

= har and Balrish

= na Pandoorung

No. 74. 12. "

# This action was brought by Rowjee Narayan to recover possession of six acres and thirty four goontas of land called Tikee Chinch, forming a portion of a field Registered No. 144 together with a well and Eress, alleging that the said land was his Murras and formerly registered in his name, but the Defendant had fraudulently got it transferred to their name and taken possession.

The Defendants Rowjee and Suntoo declared the land in question to be their Murras, and that Rowjee Narayan who was a Koolkurnee when they were of the Maler caste had not, and could not possibly have, any share therein, and that, if, at any time, it had been registered in his name, such registry was false.

The Moonsiff passed a decree in favor of Rowjee Narayan, as there was no evidence on the part of the Defendants that the land in question did not belong to Rowjee Narayan, and the Exhibits Nos 32 and on the other hand, proved that he was the proprietor.

Dissatisfied, Rowjee and Suntoo appeal, alleging that the decree is unjust, as there is no evidence to warrant a decision in Rowjee Narayan's favor, and that they have abundant proof that the land in question is theirs.

Having read over the papers in this case and heard the pleading of the Murrals in behalf of both parties and maturely deliberated thereon, the Court has no hesitation in characterizing this decree as most disgraceful to the Moonsiff of Barsee of Vrunkutras Serwajee. There is not one iota of proof just

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11/50/869  
11/50/869

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The stamp for copy was furnished on the 7th October 1863.

The copy was ready for delivery on 8th. It was delivered on the 9th.

justify his having ousted Rowjee and Suroto from their  
Mirras land. The Exhibit No. 22 is without date, and  
therefore valueless, and in the Exhibit No. 34 on which  
the Moonsiff lays some stress, Suroto expressly denies  
that Rowjee Narayan is a joint Mirasdar. The way  
in which the Decree is drawn up, pointing out mini-  
mately the defects in the case for the defence and  
passing over almost without comment the want  
of evidence in support of Rowjee Narayan's claim  
shews plainly that the Moonsiff was fully aware  
of the weakness of the case, but at the same time  
determined to pass a Decree in his favour.

The Moonsiff's Decree is reversed and Row-  
jee Narayan saddled with the costs.

November 2 } (signed) J. Lloyd.  
15th 1859 } Acting Judge  
(True copy)

J. M. Robart

Judge

M

In the High Court of Judicature Bombay.

Special Appeals.

N<sup>o</sup>. on the File 800 of 1863

Appellant

Ravji and Sattu Valad Sadasbhiv, Mali,  
Mhetre, of the Sholapur District.

Respondent.

Ravji Narayan, Kulkarni, deceased,  
[since the special was preferred] by  
his sons and heirs Gopal and Daji, of  
whom Daji a minor, by his guardian  
Gopal Ravji, Kulkarni of the  
Sholapur District.

Claim N<sup>o</sup>. 74-12.

The grounds of objection to the decision ap-  
pealed against are:-

1. That a substantial error in law in the in-  
-vestigation of the case has produced an error in  
the decision upon the merits of the case in that,  
though Survey N<sup>o</sup>. 144 continuing in the name  
of

of the appellants as occupants the Appellate Courts decision awarding the Respondent a half share of it, notwithstanding that he is no relation of the appellants, ought not to have been passed.

2. That Exhibit N<sup>o</sup>. 22, one of the papers [Accounts] of the village prepared and presented by the Respondent, as being the Kulkarni of the village, to show that he was a co-sharer in the disputed ground, ~~and~~ not being an admission on the part of the appellants, the Appellate Court ought not to have allowed the claim.

3. That though it was originally a point (for investigation) in the case, as to how the Respondent made out his proprietorship to the land in dispute, and whether he had at any time enjoyment or not - it was not laid down at all.

4. That though not a single person has been examined as a witness on the part of the Respondent, in the original Suit, and though the purpose for which this Court remanded the case has not <sup>been</sup> fulfilled, yet the claim has

has been awarded. #

The 1<sup>st</sup> December 1863.

For the Appellant  
Madhavrao Kishna  
Vakil of the High Court

Translated by  
Srimbakrao Bapuji Wajade  
Translator  
(11/12/63)

August 26<sup>th</sup> 1863.

Ravage and Suter vs. Sudachio (App'ts  
defts)

vs.

Ravage & Narayan (Plffs  
defts)

Rs 74<sup>00</sup> 12<sup>00</sup>

This suit was heard in appeal in this Court on Nov. 15<sup>th</sup> A.D. 1859 (vide this Court's Proceedings of that date) and on special appeal being subsequently preferred in the Court of Sadi Dewane Adalat, it was remanded for rehearing by this Court under date 1<sup>st</sup> September A.D. 1863. The decree of this Court being reversed in order that the further evidence tendered by the appellant before the Munsiff be taken and a fresh decree framed upon the merits awarding cost."

The question is whether Ravage & Narayan has shown that he has a half share or any, and if so what

share in the land property in which he  
claims a half share.

The extract from the "prathandi register"  
No. 22. exhibits Ranga Narayan as a  
sharee in it. The deposition No. 34, and  
the Substantive No. 13. (which this was  
stamped might have been received  
in evidence to prove a collateral  
fact for which it was offered,) of the  
execution of which there is some evi-  
dence, contain admissions by Suroo,  
which should (if these exhibits are  
worthy of trust) bind Ranga Narayan  
there also. and these admissions  
are to the effect taken together that  
Ranga Narayan had a half  
share in the "Adlunga" and "Chind  
Tala" with trees & well. The oral  
evidence is corroborative rather  
than otherwise, the only dissent,  
of Ranga Narayan's counsel in  
judgment of  $\frac{1}{2}$  share in the property

and taking it all together the Court  
thinks it affords sufficient embas-  
sion of the written evidence from which  
the Court may conclude that written  
evidence to be trustworthy. Under  
this view of the case the Merritt  
deceit is affirmed. Costs on Bausse  
and Sutor vs. Shingee. #

J. M. Kent

J. G.

~~मुंबई के लिए 9 अक्टूबर 1942 के लिए~~

~~व्यापारी माली के लिए~~

~~रुबी के लिए~~

६७

~~१९४२~~

~~वाली मना व्यक्तिसंगी जातु से ताकीने मनुके विसय~~

~~पुस्तक~~

~~के लिए माली मनुके उचित गोपनीय रसी पालिसी पर माली~~

~~माली गोपनीय (व्यक्तिसंगी)~~

~~वाली पंक्ति वा उचित माली जातु से ताकीने मनुके~~

~~माली~~

~~विसय के लिए (व्यक्तिसंगी)~~

~~रुबी~~

~~१९४२~~

~~क्या माली पत्र लिखेंगे व माली के माली पत्र लिखेंगे क्या माली~~

~~ताकीने माली हा प्र माली लिखें-~~

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~~वाली हा प्र माली~~

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~~मोक्षसिद्धि का उपाय जेधेच केविम मम मरि विविध धर्मपुत्र~~

~~पाणिपति महाराज विविध मन्त्रो देवता से काय उपाय जेधेच देशा ता जेविम~~

~~होय पवित्र मन्त्र विविध मन्त्र मन्त्र विविध खीर्या मन्त्र - (सोहा धर्मशास्त्र ४ २ २३)~~

~~जय श्री विविध मन्त्र~~

~~विविध मन्त्रो विविध मन्त्रो~~

~~3 विविध मन्त्र मन्त्रो मन्त्रो मन्त्रो मन्त्रो 68 विविध मन्त्रो~~

~~68 विविध मन्त्रो 69 विविध मन्त्रो मन्त्रो मन्त्रो मन्त्रो~~

~~692 विविध मन्त्रो 693~~

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~~जय श्री विविध मन्त्रो ६२~~

True Translation

Sham Patey

Registrar

Bombay, Monday, 1<sup>st</sup> September 1862.

The High Court \_\_\_\_\_ of Judicature

No. 67 of 1861, Special  
Raoji Narayun Koolkurni of Ghure  
in the Nurmala Talooka of the Solapoor  
District, deceased, his sons and heirs Gopal  
and Daji. Daji, a minor, by his guardian  
Gopal (Original Plaintiffs), \_\_\_\_\_ } Appellants

Raoji and Suntuo wulud Sudashiv  
Malee of Ghure in the Nurmala Talooka  
of the Solapoor District (original Defendants). } Respondents

Rupees 74 - 12 - "

The claim in the original suit was to  
recover possession of six acres and thirty four  
Goutas of land, together with a well and some  
trees.

In appeal, No. 115 of 1859, the Acting Judge  
of the District of Solapoor reversed the decree  
of the M. J. of District and the  
claim with costs on Raoji Narayun.

A Special appeal was preferred in the  
Sudder

Sudder Court on the ground that the Acting Judge has committed a substantial error in the investigation of the case affecting the decision on the merits in reversing the Moonsiff's decree without receiving the evidence which was offered by Applicant in the original suit but which the Moonsiff did not take as he was satisfied without it.

The Court reverse the decree of the Acting Judge and remand the case in order that the further evidence tendered by the Appellant before the Moonsiff be taken and a fresh decree passed upon the merits (Special Appeal No. 4253) awarding costs.

Bill of Costs

In the Sudder Court

By Appellant

Copies of Decrees and Judgment	3	0	0
Bukalutrama	"	4	0
Batta for process	"	12	0
Application to enter the name of the appellants' heir	2	0	0
Bukalutrama for the appellants' heir	2	0	0
1/4 Bukkeel's fee	"	9	0
Sectioner's fee	1	1	5
			<u>Rs 20-10-5</u>

By Respondent

Bukalutrama	"	4	0
Bukkeel's fee	"	9	0
			<u>Rs 13-0-0</u>



Whitcomb  
Sealer  
H. Deoout  
H. Clewtno.

The 1st day of September 1862