

In the High Court of Judicature, Bombay.

Thursday, the 21 day of July 1864.

SPECIAL APPEAL No. 18 of 1864.

Ramchandra Gungadhar
Ghunwathur of the Konkun
District
Appellant,
(Original Plaintiff)

versus

Walkia bin Khundoo ^{Joshee} deceased
his son and heir ^{Muroodnogy} ~~Walkia bin~~
Walkia of the Konkun Dis-
trict
Respondent,
(Original Defendant)

Rs. 9 - 1 - 3

The claim in the Original Suit was to obtain possession of certain lands on a Dec of Rs 60

In Appeal No. 316 of 1864 the ^{Def. Assmt of} the District of ^{the Konkun} at ^{Sargah} ^{reversed} the Decree of the ^{Magistrate} who ^{had awarded the claim} of ^{therein} ^{with costs}

A Special Appeal was preferred in the High Court on the grounds that (1) There has been a substantial error in law in the investigation of the case which has produced error in the decision thereof upon its

its merits in that as the Respondent never denied the proprietary title of Laxmun and Ramchundr to the land in dispute, the appellate Court ought not to have rejected the Appellants' claim on that ground: and that (2) as the Respondent's possession had been without any proprietary title, as the land had never stood in his name and he had never paid the Government assessment, the Assistant Judge ought not to have considered the Appellants' claim defective in any degree upon the ground of mere possession without proprietary title.

The Court said that the points which are really at issue in this case are, 1st whether Ramchundr can prove that he, or the persons from whom he derives title, had the legal ownership of the land, and if so.

2nd whether Kallias has ^{or the persons from whom he derives his right to} prove that he has held the land without interruption for a longer period than thirty years as prescribed so that his possession must be held to be proof of a sufficient right of property in the same.

These points were held.

properly raised before the testimony
of Ramchundur may have received
damages from them not having been
raised because he has not had
the opportunity which he ought
to have had of producing evidence
regarding them.

The Acting Justice before coming to a
conclusion on the point should have
allowed both parties a further
opportunity of producing evidence.

The Court reverse the Acting
Justice's decree and remand
the suit that such opportunity
may be allowed to both parties
if the Sec. Court of Nag pass a like
decree on the merits awarding
costs.

H. P. S. Tucker,

Secy and am. Depy Mag.

MEMORANDUM OF COSTS incurred in Special Appeal No. 18

of 186 4 against the decision of the Acting S^{rs} Judge of the District of the Nonkum and disposed of on the 21st July 1864 by *remanding the same for retrial.*

IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment	2	8	✓
Stamp for Vukeelutnama	"	"	
Batta for Process and Postage	1	1	✓
Sectioner's Fee	"	13	6
Vukeel's Fee one-fourth	"	"	"
		4	6
		6	6
Rupees ...	4	6	6

BY THE RESPONDENT—

Stamp for Vukeelutnama	2	"	✓
Vukeel's Fee one-fourth	"	1	1
		2	1
		1	1
Rupees....	2	1	1



L. Gyms

Sealer

The 21st day of July 1864

L. Gyms
Acting Registrar