

In the High Court of Judicature, Bombay.

Tues - day, the ~~even~~ day of August 1864.

SPECIAL APPEAL No. 180 of 1864.

Balkrishn Rughoonath Gondhulekar of the Putnagiri Division of the Konkun District } Appellant,

(Original Defendant)

versus

Vinayek Bapooji and Gunesh Jugunnath and Lukshmun Krishn Gondhulekar of the Putnagiri Division of the Konkun District } Respondents

(Original Plaintiffs)

Rs. 1000 - " - "

The claim in the Original Suit was to obtain formal possession of one half of a common ancestral estate - certain garden land at Dabhole - which the Defendant was declared to have appropriated from 1835/56.

In Appeal No. 124 - of 1860 the Ag. Senior Asst. Judge of the District of the Konkun at Putnagiri reversed with ~~the~~ the Decree of the J. of Nurree who had decreed in favor of ~~the~~ the Original Defendant.

A Special Appeal was preferred in the High Court on the grounds that (1) 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 senior assistant judge has misconstrued.

strued the documents Nos. 6, 173 and No. 39  
in appeal in as much as there is nothing to  
presume against the Appellant in the way  
he has done: that (2) the Senior Assistant  
Judge was in error in holding that in exhibit  
No. 173 the Appellant has admitted all the  
accounts and records put in by the Res-  
pondents to be genuine whereas there is  
no such admission as held by him: That  
(3) the Plaintiffs not being descendants of  
Mahadaji, the senior Assistant Judge was  
in error in assuming the parties to the suit  
to be undivided from the circumstances  
that the Appellant has admitted that his  
father and cousin Mahadaji were joint  
in interest: That (4) the onus of proof is  
wrongly thrown on the Appellant: That  
(5) the Senior Assistant Judge was in error  
in receiving the survey Register in evidence  
against the Appellant: That (6) the ~~former~~  
Senior Assistant Judge has misconstrued  
the accounts Nos. 12 to 44 in holding that  
they shew that the Plaintiffs' family have  
received their half share of the profits of  
the garden in dispute and further that  
the genuineness of the whole of these ac-  
counts are never admitted by Appellant:  
that

that (7) the senior Assistant Judge was in error in giving no opinion on the fact found by the Moonsiff that the ~~ground~~<sup>garden</sup> alluded to in the plaint and the sunuds are distinct: that (8) the property in question pays assessment to Government therefore the claim should have been valued accordingly and not in the way the Plaintiffs have done: and that (9) the claim is barred by the law of limitation. -

The Court confirm the Decree of the Senior Ass: Judge with costs.

Joseph Arnald  
A. C. C. M.

MEMORANDUM OF COSTS incurred in Special Appeal No. 180

of 186 4 against the decision of the *Acting Senior Judge* of the District of *the Konkan* and disposed of on the 2<sup>nd</sup> August 1864 by *confirming the same with Costs.*

BY THE APPELLANT—

*In the District.*

In the <i>Moonsiff's Court</i> .....	162	3	2	✓		
In the <i>Senior Judge's Court</i> .....	32	8	"	✓		
			194	11	2	✓

*In this Court.*

Stamp for Memorandum of Special Appeal .....	50	"	"	✓			
Stamps for copies of Decree and Judgment .....	3	8	"	✓			
Stamps for Vukeelutnama <i>two</i> .....	4	"	"	✓			
Batta for Process and Postage .....	4	4	"	✓			
Sectioner's Fee .....	2	14	"	✓			
Vukeel's Fee .....	30	"	"	✓			
			94	10	"	✓	
			Rupees	289	5	2	✓

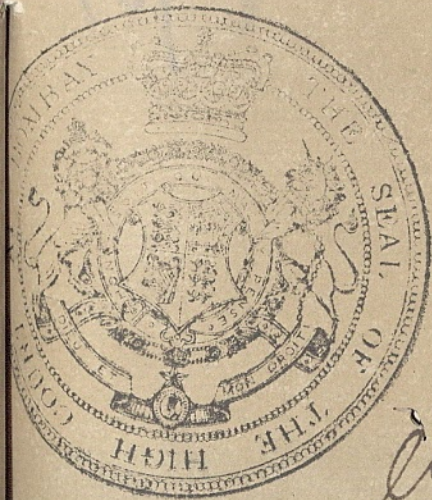
BY THE RESPONDENTS

*In the District.*

In the <i>Moonsiff's Court (including fees)</i> .....	196	9	"	✓		
In the <i>Senior Judge's Court</i> .....	90	10	"	✓		
			287	3	"	✓

*In this Court.*

Stamp for Vukeelutnama .....	2	"	"	✓			
Vukeel's Fee .....	30	"	"	✓			
			32	"	"	✓	
			Rupees	319	3	"	✓



*Channe*  
Acting Registrar

*Channe*  
Sealed  
The 22 day of August 1864