

decision of the case upon its merits in that the account of the contract, exhibit No 50, being prepared by the Nazir of the lower court upon commission being issued to him the Appellate Court ought to have awarded the balance to the respondents contrary to that account that (2) the respondents having never raised the objection that no loss had been sustained in the contract, as mentioned in exhibit No 50, the Court ought to have awarded (the claim) minus the amount of loss mentioned in exhibit No 50, agreeably to Section 121 of Act VIII of 1859 but it has not done so that (3) the transaction in dispute being in connection with the contract, the Appellate Court's decision referring the Appellant to make a separate suit for the loss sustained in the same transaction is contrary to the terms of the agreement Exhibit No 7.

The Court confirm the decree of the District Judge with costs expressing at the same time their dissent from that portion of the judgement ^{in which he declares that} ~~authorizing~~ the Deft. ^{to} bring a separate action for the recovery of any sum he may consider due to him on account of the loss on the contract.

A.P. S. S. S.

[Signature]

MEMORANDUM OF COSTS incurred in Special Appeal No. 187.

of 186 4. against the decision of the Judge - - - of the
 District of Poona . . . and disposed of on the 25 July. 1864
 by confirming the same with costs.

BY THE APPELLANT—

In the District.		
In the Sudet Amias Court (Sudet. Mag. & T. Co.)	73 1 5	
In the Judge's Court	157. 14 5	240 15 10
In this Court.		
Stamp for Memorandum of Special Appeal	100 " "	
Stamps for copies of Decree and Judgment	3 " "	
Stamp for Vukeelutnama	2 " "	
Batta for Process and Postage	4. 9 "	
Sectioner's Fee	1 5 "	
Vukeel's Fee	61. 14 5	172. 12 5 7
		Rupees . . . 413. 12 3

BY THE RESPONDENT

In the District.		
In the Sudet Amias Court	174 15 5	
In the Judge's Court	62. 14 5	237. 13 10
In this Court.		
Stamp for Vukeelutnama	2 " "	
Vukeel's Fee	61. 14 5	63. 14 5 7
		Rupees . . . 301. 12 3



Ujwale
 Acting Registrar

Ujwale
 Sealer.

The 25th day of July 1864