

In the High Court of Judicature, Bombay.

Thursday, the 21 day of July 1864.

SPECIAL APPEAL No. 194 of 1864.

Gunga Ram Nagur Wummali
of the Konkan District

Appellant,

(Original Defendant)

versus

Damji Chaugpalathur
of the Konkan District

Respondent,

(Original Plaintiff)

Rs. 11-0-0

The claim in the Original Suit was to compel defendant to remove a wall, by building which he had blocked up a passage running between his and Plaintiff's houses thereby obstructing Plaintiff's right of way.

In Appeal No. 619 of 1862 the Acting Judge of the District of the Konkan - at Panvel affirmed with costs an appeal the Decree of the Mof of Panvel who had awarded in favor of Plaintiff.

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 occurred which has produced an error in the decision of the case upon its merits in that the Mof having passed a Decree without

without deciding the material issue in the
cause namely the title to the property in
dispute the Acting Judge was wrong in
confirming the same Decree: that (2),
the Acting Judge has admitted the evi-
dence of only one witness who is related
to Respondent Daniji notwithstanding
the statement of the Appellant in her
appeal that the witness is not a man
to be credited: & that (3) the Acting Judge
refused to take further evidence on
behalf of the Appellant.

The Court confirm the decree of
the District Judge with costs on
Special Appellant.

Joseph Arnold

Hewitt.

A. Warden

