

In the High Court of Judicature, Bombay.

From day, the 8th day of August 1864.

SPECIAL APPEAL No. 227 OF 1864.

Shanji Karoji Mayekar
of the Kankam District } Appellant,
(Original Defendant)

versus

Damaji bin Balraj
of the Kankam District } Respondent,
(Original Plaintiff)

Rs. 6-14-6.

The claim in the Original Suit was to redeem a field alleged to have been mortgaged by Plaintiff's mother when he (Plaintiff) was a minor.

In Appeal No. 253 of 1863 the Assistant Judge of the District of Kankam at Dhauwah reversed the Decree of the Judge of Alibag who had thrown out the claim.

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the Assistant Judge is against the Law, in that,

1st The hearsay evidence of the mortgage has

has been admitted when the best evidence was forthcoming: that (2) adverse possession of more than 30 years is sought to be disturbed on the strength of documents Nos 21 and 22 which have not been proved, and which are no conclusive evidence against the Appellants' rights: that (3) Adverse possession of above 12 years gives the Appellant a sufficient proprietary title, whereas the Court below has ruled the contrary: that (4) the onus probandi was improperly thrown upon the Appellant.

II That there has been a defect in the procedure of the case which has produced a substantial error in the decision of the case on its merits, in that,

That this being a suit for redemption of a mortgage was not laid at the amount of the mortgage.

The Court ~~confirm~~ reverse the decree of the Assist. Judge and confirm that of the Deonsiffs with costs on the Special Respondent.

H. H. Tucker
Succeeded by
Succeeded by

MEMORANDUM OF COSTS incurred in Special Appeal No. 227.

of 1864 against the decision of the *Afs^{te}* Judge of the District of *The Koutam* and disposed of on the 8th August 1864 by reversing the decree of the *Afs^{te}* Judge and confirming that of the *moonsiff* with costs

BY THE APPELLANT—

In the District.			
In the <i>Moonsiff's Court</i>	.....	3	54 ✓
In the <i>Judges Court</i>	.....	1	33 ✓
In this Court.			4. 87 ✓
Stamp for Memorandum of Special Appeal	.....	1	" ✓
Stamps for copies of Decree and Judgment	.....	2	" ✓
Stamp for Vukeelutnama	.....	2	" ✓
Batta for Process and Postage	.....	1	5 ✓
Sectioner's Fee	.....	"	14 3 ✓
Vukeel's Fee	.....	"	3 4 ✓
			7. 67 ✓
		Rupees....	11 15 2 ✓

BY THE RESPONDENT.

In the District.			
In the <i>Moonsiff's Court</i>	.....	6	11 4 ✓
In the <i>Judges Court</i>	.....	3	13 ✓
In this Court.			9 12 7 ✓
Stamp for Vukeelutnama	.....	2	" ✓
Vukeel's Fee	.....	"	3 4 ✓
			2 3 4 ✓
		Rupees....	11 15 11 ✓



Cyrene
Cyrene Acting Registrar
 Sealer

The 8th day of August 1864