

Sulara

In the High Court of Judicature, Bombay.

Monday, the 8<sup>th</sup> day of August 1864.

SPECIAL APPEAL No. 235 of 1864.

Buhari bin Sukhoji of the  
Satara District

Appellant

(Original Plaintiffs)

versus

Khetoo, deceased, his sons and  
heirs Sugoo and Vitoo of the  
Satara District

Respondent

(Original Defendants)

Rs. 12-~~00~~ 6

The claim in the Original Suit was to recover possession of certain lands alleged to have been let to Deft. Khetoo.

In Appeal No. 265 of 1863. the Judge of the District of Satara at Satara confirmed the Decree of the P.S.A. of Satara who had thrown out the claim.

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the District Judge is contrary to law in that the land in dispute having been

been adjudged to the Appellant by a decree of the judicial tribunals of the late Government, the Defendants objections ought not to be allowed to stand that (2) there has been a substantial error in law in the investigation of the case and which has produced error in the decision of the case on its merits in that (a) the District Judge below misinterpreted the nature of the appellants claim in ruling that his interest in the subject matter of the suit was merely that of a cultivator that (b) the District Judge assumed that every temple land ought to be managed by a "Punch" and that (c) the District Judge threw out the appellants claim because he could not show that he was the "Punch" who managed the land for the temple.

The Court is of opinion that the issue raised by the Judge viz: Has Ponhirjee proved himself to be the authorized manager of the land is not the issue on which the right determination of the case depends, the suit being simply one for recovery of possession of land alleged to have been let by Ponhirjee (Plaintiff's) grandfather to Defendants' father as tenant. The issue therefore simply

MEMORANDUM OF COSTS incurred in Special Appeal No. 235—

of 1864 against the decision of the Judge— of the  
 District of *Satara* and disposed of on the 8 August 1864  
 by *remanding the same for retrial.*

IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment .....	2	8	11	
Stamp for Vukeelutnama .....	2	"	"	
Batta for Process and Postage .....	"	13	"	
Sectioner's Fee .....	2	13	9	
Vukeel's Fee one-fourth .....	"	15		
				842
				Rupees ... 842.

BY THE RESPONDENT—

Stamp for Vukeelutnama .....	2	"	"	
Vukeel's Fee one-fourth .....	"	15		
				215
				Rupees.... 215



*Shree*  
*Sealer*

*Shree*  
*Acting Registrar*

*The 8<sup>th</sup> day of August 1864.*

I send a Certificate on Her  
Majesty's Treasury Bank of Bombay  
for the refund of Rupee one (1) being  
the value of the stamp used for  
Special appeal in this case.  
8th August 1864

Yours  
Acting Registrar

~~21/8/64~~

Acting Registrar

18th August 1864

is whether Plaintiff Buhirjee proved his right to recover possession of the land, and the determination of that issue depended on ascertaining the point whether the Plaintiff's <sup>grandfather</sup> let the land to Defendant's father as tenant as alleged.

The Court therefore reverses the decree of the Judge and remands the case for a finding on the point whether Plaintiff Buhirjee proved that his grandfather let the land to Defendant's father as tenant.

The Judge was wrong in attempting that all temple lands shd be managed by a Punch, nor shd he have thrown out Buhirjee's claim because he cd not show that he was the Punch who managed the land for the Temple - He shd enquire & determine whether Buhirjee has a proprietary right to the land subject to the payment of certain dues to the temple.

Joseph Arnold

H. C. W. M.

A. W. Madan