

In the High Court of Judicature, Bombay.

Held day, the 11th day of *January* 1865.

SPECIAL APPEAL No. 237- or 1864.

*Babaji and Bhavo and Aho -
and Guroo Sons of Subhoji,
of whom the last three are
minors by their guardian Babaji bin
Subhoji of the Konkan -
District* (Original Plaintiffs)

Appellants,

versus

*Panahet Pandroshet
Chowdhari and Subhoji
bin Shivaji of the Kon-
kan District* (Original Defendants)

Respondents,

Rs. 27-0-3-

The claim in the Original Suit was to

*cancel the title of the
original Defendants Panahet and Subhoji
to 12 fonthas of land, and to establish the title
of original Plaintiffs thereto; Subhoji having without
authority sold the said land to the first Defen-
dant Panahet of 1831 the acting judge
of the District of the Konkan at Panahet confirmed on 6
the Decree of the Sup. of Panahet who had thrown out the claim.*

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the sitting Judge is contrary to usage having the force of law in that the (Appellants) possessing

a) common interest in the ancestral property in dispute the (1st) Respondent had no right whatever to purchase from Sabhoji alone the property which was common. The decision of the Appellate Court in upholding the sale was therefore, contrary to Hindu Law, that (2) Sabhoji the father of the Appellants being a man of bad conduct (the 1st Appellant) was (naturally) the proper guardian of his minor brother according to Hindu Law the decision of the Appellate Court in upholding the right of Sabhoji (to the guardianship) was, therefore, contrary to the Hindu Law; that (3) there has been a substantial error in law in the investigation of the case which has produced an error in the decision of the case on its merits, in that the (1st) Respondent having lent money to Sabhoji alone on the common property, the onus of proving that the debt was contracted for a common (family) purpose, lay on the Respondent, whereas it was wrongly thrown by the Appellate Court on the appellants: and that (4) the opposite parties having not raised the point of minority of the (1st) appellant at the time of sale and no point like the one above, having been laid down in the case, the Appellate Court decided on extraneous issues. The Court confirms the decree of the Acting Judge

Judge.

Costs on Special Appellant.

H. W. Tucker

A. W. Warden -

to defendant

MEMORANDUM OF COSTS incurred in Special Appeal No. 237

of 186 4 against the decision of the *Acting Judge* of the District of the *Honkum at* ^{Tanna} and disposed of on the 11th January 1865. by confirming the same with costs on Special Appellant.

BY THE APPELLANT

IN THE DISTRICT.

In the <i>Mousiff's Court</i> (including <i>Vukeel's Fee</i>)	8	3	..	✓
In the <i>Judge's Court</i>	13	13	9	✓
			22	0 9 ✓

IN THIS COURT.

Stamp for Memorandum of Special Appeal	2	"	..	✓
Stamps for copies of Decree and Judgment	2	8	"	✓
Stamp for <i>Vukalutnama</i>	2	"	..	✓
Stamp of an application to enter the name of the Appellant's heir	✓
Batta for Process and Postage	1	8	"	✓
Sectioner's Fee	1	13	6	✓
<i>Vukeel's Fee</i>	..	13	"	✓
			10	10 6 ✓

Rupees.... 32 11 3 ✓

BY THE RESPONDENT

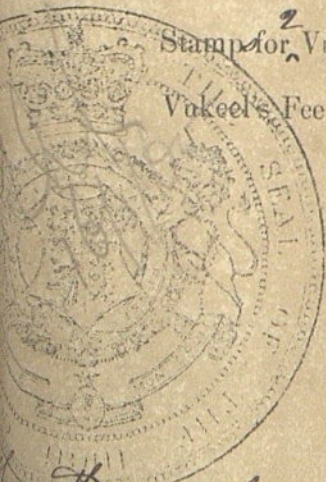
IN THE DISTRICT.

In the <i>Mousiff's Court</i>	13	13	6	✓
In the <i>Judge's Court</i>	11	4	3	✓
			25	1 9 ✓

IN THIS COURT.

Stamp for <i>Vukalutnama</i>	4	"	..	✓
<i>Vukeel's Fee</i>	..	13	"	✓
			4	13 " ✓
			29	11 9 ✓

Rupees.... 29 11 9 ✓



R West
Sealer

R West
Registrar

11th day of January 1865