

Konkan

In the High Court of Judicature, Bombay.

Thursday, the 4th day of August - 1864

SPECIAL APPEAL No. 243 of 1864

Narayan Bhangumthut
Pithur of the Konkan Dis-
trict
Appellant
(Original Defendant)

versus

Gopalbhat bin Gureshbhat
and Krishnumbhat, deceased
his heir Vishnumbhat of the
Konkan District
Respondents
(Original Plaintiffs)

Rs. 32-~~0~~-"

The claim in the Original Suit was to *restrain the Deft*
from interfering with Pff's use of
a well.

In Appeal No. 22 of 1863 the *Act. Sub. Collector*
of the District of *Bohlea* at *Alibag* confirmed
the Decree of the *Mamuldar of Alibag* who *had awarded the*
claim.

A Special Appeal was preferred in the High Court on the grounds that *the decision*
of the Act. Sub. Collector is
contrary to law in that the present suit
having been brought for establishing a pro-
prietary title and not merely for drawing?

water, is not cognizable by a Revenue Court
under Act XVII of 1839, that (2) a decision having
been given (with respect to the property in
dispute) in the time of the Auyrias' ^{claim} dikkar,
and the applicant having held the possession
of it for a period of more than 30 years
under the authority of the said decision,
the claim of the Respondents was not tenable,
that (3) a decision having been given during
the late reign, and the parties having held
the management under it, a fresh suit does
not lie for the same matter under section
2 of Act VIII of 1859, that (4) the Respondents
having admitted that the parties in dispute
are sharers and that they both have had
management for a great length of time,
the Revenue Court had no authority to
interfere with the long-standing man-
agement of the appellant before the pro-
-prietary title was determined, and that
(5) convenience should be had in view in deter-
-mining the shares in the well in dispute,
whereas it was not done so, which was con-
-trary to justice and usage.

The Court confirm the Decree of the Sub.
Collected with costs on Special Appellant
Jesph. Arnold
H. Ullmer.

MEMORANDUM OF COSTS incurred in Special Appeal No. 243.

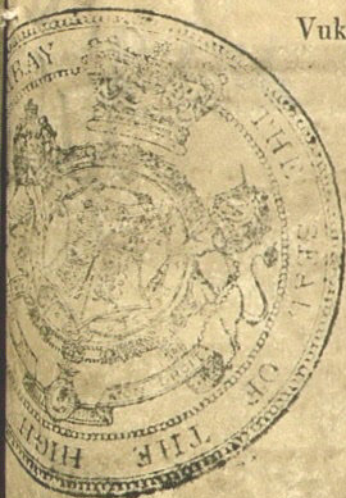
of 186 4 against the decision of the *Actg Sub-Collector* of the District of *Kolaba* ... and disposed of on the *4th August 1864* by *Confirming the same with Costs.*

BY THE APPELLANT—

| <i>In the District.</i> | | | | |
|--|---------|---|------------|---------|
| In the <i>Mamledar's Court</i> | 3. 11 4 | ✓ | | |
| In the <i>Sub-Collector's Court</i> | 4 9 10 | ✓ | 8 5 2 | ✓ |
| <i>In this Court.</i> | | | | |
| Stamp for Memorandum of Special Appeal | 2 " " | ✓ | | |
| Stamps for copies of Decree and Judgment | 2 " " | ✓ | | |
| Stamp for Vukeelutnama <i>two</i> | 4 " " | ✓ | | |
| Batta for Process and Postage | 1 12 " | ✓ | | |
| Sectioner's Fee | " 12 " | | | |
| Vukeel's Fee | " 15 4 | | 11 7 4 | ✓ |
| | | | Rupees.... | 19 12 6 |

BY THE RESPONDENT

| <i>In the District.</i> | | | | |
|---|--------|---|------------|---------|
| In the <i>Mamledar's Court</i> | 6 11 4 | ✓ | | |
| In the <i>Sub-Collector's Court</i> | 1 15 4 | ✓ | 8 10 8 | ✓ |
| <i>In this Court.</i> | | | | |
| Stamp for Vukeelutnama | 2 " " | ✓ | | |
| Vukeel's Fee | " 15 4 | | 2 15 4 | ✓ |
| | | | Rupees.... | 11 10 " |



G. M. S.

Sealer

G. M. S.
Acting Registrar

The 4th day of August 1864.