

Pooni Holpar

In the High Court of Judicature, Bombay.

Monday, the 3rd day of August 1864.

SPECIAL APPEAL No. 247 of 1864

*Hoormusji Femoolji Shet Parsee
of Bombay.*

Appellant

(Original Defendant)

versus

*Tunjeeeram Tulchand manager of
the firm of Dowlatram Pivunda
of the Poona District*

Respondent

(Original Plaintiff)

Rs. 1167-9-11

The claim in the Original Suit was to recover the balance due on a mortgage bond.

In Appeal No. 704 of 1862 the Assistant Judge of the District of Poona at Poona awarded the Decree of the P.S.A. of Poona who had awarded the claim less Rs 46-4-0 with interest and awarded Rs 1167-9-0 with costs in proportion.

A Special Appeal was preferred in the High Court on the grounds that (1) there has been substantial error in law ~~in~~ in that the Assistant Judge was in error in holding without evidence before him to the point, that there was

no doubt that appellant had many money dealings with Respondent besides the Bond on which the present claim was based that (2) whether Appellant had other money dealings with Respondent besides the bond sued on, or not, the Assistant Judge erred in not proceeding to enquire whether these other money dealings were so extensive as to amount to the sum of Rupees 1050. acknowledged to have been received by Respondent on account of Appellant, and not credited to the account of the Bond sued on. that (3) the Assistant Judge erred in holding there was no evidence to shew that this item of Rupees 1050 had any reference to the present claim there being evidence to this fact recorded in this case that (4) the Assistant Judge erred in opening up the question of the receipt for Rs 39 as it is to be presumed Respondent received the full amount thereof otherwise he should not have passed it that (5) the Assistant Judge erred in not taking a proper account between the parties as he was bound to do that (6) the onus of proof has been thrown on the wrong party viz. Appellant

The Court confirm the Decree of
the Appellate Judge with costs

Joseph Arnold
H. Custon

J. M. M. M.

MEMORANDUM OF COSTS incurred in Special Appeal No. 247

of 1864 against the decision of the *Appellate Judge* of the District of *Poonah* - and disposed of on the *8th Aug^r 1864* by *Confirming the same with Costs.*

BY THE APPELLANT—

<i>In the District.</i>				
In the <i>Principal Subj. Amins Court.</i>	20.	3	5	✓
In the <i>App^{te} Judge's Court.</i>	113.	3	6	✓
			133.	6 11. ✓
<i>In this Court.</i>				
Stamp for Memorandum of Special Appeal	50	"	"	✓
Stamps for copies of Decree and Judgment	3	"	"	✓
Stamp for Vukeelutnama	2	"	"	✓
Batta for Process and Postage	2	7	"	✓
Sectioner's Fee	"	12	3	✓
Vukeel's Fee	35.	"	5.	✓
			93.	3 8. ✓
			Rupees....	226. 10 7. ✓

BY THE RESPONDENT.

<i>In the District.</i>				
In the <i>Principal Subj. Amins Court.</i>	92.	8	1.	✓
In the <i>App^{te} Judge's Court.</i>	48.	9	3.	✓
			141.	14 ✓
<i>In this Court.</i>				
Stamp for Vukeelutnama	2	"	"	✓
Vukeel's Fee	35.	"	5.	✓
			37.	4 5. ✓
			Rupees....	178 19. ✓



W. W. W.
Acting Registrar

W. W. W.
The 8th day of August 1864