

(Sukharani's)

(a) The appellants' mortgage having been with possession, it must be held as superior to that of the opposite party.

(b) The opposite party having purchased the property in question, his right of mortgage was extinguished and the appellants' lien attached.

That (1) a substantial error of law in the investigation of the case have been made which have produced errors in the decision of the case on its merits, in that Respondent, ^{Sub. Sukharani} did not prefer his claim within one year from the date of the sale as required by Act 14 of 1854 his present claim will not lie, that (2) according to Hindoo Law a mortgage without possession is not valid against a sale with possession: and that (3) the Assistant Judge was in error in holding that the property purchased by the appellants is liable for whole of the Plaintiffs' ^(Sukharani's) debt.

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M

~~Decree in Number 258~~, Special

no 258

Appeal, by Sukharani agt. Umeshi; the Court finds that Umeshi being a prior mortgagee, & also a purchaser, Sukharani the puisne mortgagee has no claim against him.

Special appeal

In no 443 of 1864 of Sukharani vs. Bhikaji the Court reverses the

Decree
Judgment of the ~~Judge~~ Asst. Judge, &
remains the case in order that
the Court below may determine,
regard being had to the circumstances
under which it was given, whether
the statement as in the certificate
to the effect that Bhukajee acquiesced
in the claim of Sukharām under
the Mortgage Deed dated Pouthwid
Shukē 1781 for Rs 401, was founded
on an absolute admission of the
validity of the said mortgage, or
was intended only to amount to
an admission of the mortgage in
case it sh^d be legally established.

In case Judgment be
given for Sukharām, the property
of Bhukajee will not be held liable
for more than Sukharām's claim
under his mortgage (Rs 250/1000
for the whole amount he sued
for -

Decree to be given on
the merits - Costs to follow final
decision -

Joseph Arnold
Att. Gen.

Bill of Costs
In special app^t no. 258 of 1864
In this Court

Filed
23/8
Received by
Revenue

<i>By the appellant</i>		
Stamps for copies of decree & judgt	3 8"	
Stamp for Vukalutuanama	2 "	
Patta for Process and Postage	1 2"	
Sectioner's Fee	1 86	
Vukeli's Fee one fourth	7 2	8 9 8
	<i>Supers</i>	<i>8 9 8</i>
<i>By the Respondent</i>		
"	" "	" "
	<i>Supers</i>	<i>" "</i>

In special app^t no. 443 of 1864
In this Court

Stamps for copies copies of decree & judgt	3 8"	
Stamp for Vukalutuanama	2 "	
Patta for Process and Postage	1 8"	
Sectioner's Fee	1 86	
Vukeli's Fee one fourth	1 2"	9 10 6
	<i>Supers</i>	<i>9 10 6</i>
<i>By the Respondent</i>		
Stamp for Vukalutuanama	2 "	
Vukeli's Fee one fourth	1 2"	3 2"
	<i>Supers</i>	<i>3 2"</i>

For Acting Registrar

For Sealer

The 19 day of August 1864

Received at 4 on 20/8/64
Ready 3/2 oz 23/8/64

Special Appeal No 258 of 1864.

Bill of Costs

By the Appellant

In the District

In the Moonseiff's Court	57.12.1	✓
- Do - Assst Judges - Do -	18.1.9	✓
	<u>75.13.10</u>	✓

In this Court

Stamp for Merus: of Special appeal.	4. " "	✓
Stamps for copies of Decree & judgment.	3. 8. "	✓
Stamp for Vukalutuanua	2. " "	✓
Walter for Process and Postage	1. 2. "	✓
Sectioner's Fee	1. 8. 6.	✓
Vukeels' Fee	1.12.10.	✓
	<u>13.15.4</u>	✓
	Pupees. <u>89-13-2</u>	

By the Respondent

In the District

In the Moonseiff's Court	70.11.3	✓
- Do - Assst Judges - Do -	18.10.8	✓
	<u>88.14.11</u>	✓

In this Court

_____	_____	_____
_____	_____	_____
	<u>88.14.11</u>	
	Pupees. <u>88.14.11</u>	

Special Appeal No 443 of 1864

By the Appellant.

In this Court

Stamps for copies of Decree & judgment.	3. 8. "	✓
Stamp for Vukalutuanua	2. " "	✓
Walter for Process and Postage	1. 8. "	✓
Sectioner's Fee	1. 8. 6.	✓
Vukeels' Fee one fourth	1. 2. "	✓
	<u>9.10.6</u>	✓
	Pupees. <u>9.10.6</u>	

By the Respondent
 Stamp for Vukalutuanu — 2. " " ✓
 Vukels Fee — in fourth — 1. 2. " ✓
 3. 2. " ✓
 Rupees. 3. 2. " ✓



Ch. L. M. S. S. K.
 For Acting Registrar

Ch. L. M. S. S. K.
 For Sealer

The 19th day of August 1864

In Special appeal No 443 of 1864

Issued a Certificate on Her Majesty's
 Treasury Bank of Bombay for the refund of
 Rupees (8) right being the value of Stamp paid
 for Special Appeal in the above case.

Dated this 19th day of August 1864

21.88
 25-08-14

Ch. L. M. S. S. K.
 For acting Registrar

Certificate delivered to the