

In the High Court of Judicature, Bombay.

Monday, the 8th day of August 1864

SPECIAL APPEAL No. 288 of 1864.

Mulhar Wiled Deep Patel Shirsat
of the Ahmednugur District

Appellant

(Original Defendant)

versus

Tootsaji Wiled Rampi Shirsat
of the Ahmednugur District

Respondent

(Original Plaintiff)

Rs. 5-5-5.

The claim in the Original Suit was to recover possession
of half a field.

In Appeal No. 315 of 1863 the Judge
of the District of Ahmednugur at Ahmednugur confirmed
the Decree of the ~~Munsiff of Ahmednugur~~ who had awarded
possession on payment of Rs 60.

A Special Appeal was preferred in the High Court on the grounds that (1) there
has been a substantial error in law in the proce-
-dure of the case which has produced error in the
decisions

decision of the case upon its merits in that, the mortgage deed N^o 3 has been misconstrued in as much as it does not shew that the property in dispute is mortgaged to the Appellants that (2) under the provisions of Section IV of Act 14 of 1859 verbal admission is not a legal acknowledgment of a debt that (3) the property in dispute being in the Appellants possession the onus of proof should have been thrown on the Respondent that (4) the District Judge's finding as to the existence of another bond is illegal in as much as if it ever existed it ought to have been in Respondents possession who was the only person interested in its execution and that (5) the suit ought to have been brought at the amount of the mortgage and that (6) the decision of the District Judge is contrary to law in that the suit is barred by the statute of limitations under Section I of Act 14 of 1859 in as much as more than sixty years have elapsed since the property was mortgaged under deed N^o 3 that (7) according to Plaintiffs own statements in the plaint the suit is barred under clause 10 Section 1 of Act 14 of 1859 that (8) the endorsement on the back of the deed N^o 3 is inadmissible in evidence for want of stamp

stamp that (4) hearsay evidence is admitted
to prove the Respondent's title to the land
which is illegal.

Re Court confirms the Decree
of the District Judge with costs
in Special Appellant.

Joseph Amould.

H. Lester.

S. M. J. J.

MEMORANDUM OF COSTS incurred in Special Appeal No. 288

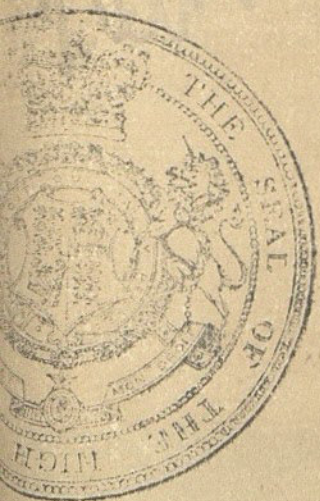
of 1864 against the decision of the Judge ----- of the District of *Shuednagar* and disposed of on the 8th August 1864 by *Confirming the same with costs.*

BY THE APPELLANT—

In the District.				
In the <i>Moonsiff's Court</i>	4	1	7	
In the <i>Judge's Court (including v. fee)</i>	2	"	7	
In this Court.				6 22.
Stamp for Memorandum of Special Appeal	1	"	"	
Stamps for copies of Decree and Judgment	3	"	"	
Stamp for Vukeelutnama	2	"	"	
Batta for Process and Postage	"	15	"	
Sectioner's Fee	1	12	"	
Vukeel's Fee	"	2	7	
				8. 13 7.
				Rupees.... 14 15 9.

BY THE RESPONDENT.

In the District.				
In the <i>Moonsiff's Court</i>	9	14	7	
In the <i>Judge's Court</i>	1	2	7	
In this Court.				11 12.
Stamp for Vukeelutnama	2	"	"	
Vukeel's Fee	"	2	7	
				2. 2 7.
				Rupees.... 13. 3 9.



Shume
Acting Registrar

Shume
Dealer

The 8th day of August 1864