

In the High Court of Judicature, Bombay.

Monday, the 4th day of August — 1864.

SPECIAL APPEAL No. 302 OF 1864.

Girjaji Kulad Bhitkaji Sonar
of the Poona District } Appellant

(Original Defendant)

versus

Keshurav bin Naraji
Patil of the Poona District } Respondent

(Original Plaintiff)

Rs. 480 — " — "

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

In Appeal No. 1040 of 1862 the Act. Assist Judge of the District of *Poonah* at *Poonah* reversed the Decree of the *Juff of Rhed* who had thrown out the claim and awarded Rs 480 with costs in proportion.

A Special Appeal was preferred in the High Court on the grounds that ~~the~~ decision appealed by the ~~Acting Assistant Judge~~ that substantial errors in law in the investigation of the case have been

been made which have produced errors in the decision of the case upon its merits.

1st In that the Acting Judge was in error in ruling that a mortgagee when in possession of the mortgaged land is not bound to cultivate any valuable crop which may yield a good income but on the contrary he may cultivate it as he likes with as little profit to the mortgagor as the mortgagee may choose (2nd) that the Acting Judge having held that the mortgagee failed in giving a satisfactory account of his management was in error in not presuming against him.

3rd that the Acting Judge was in error in not awarding interest on the sum of Rs 370 held to have been received by the Respondent (4th) that the land in question is admitted to be garden land and capable of yielding a valuable crop the mortgagee was under the circumstances bound by the implied contract which he entered into with the mortgagor at the time of obtaining possession to use due diligence and cultivate the ordinary crop which the land was capable of yielding; the Acting Judge was in error

error in holding that he was not
so bound.

The Court reverses the
Decree of the Acting Civil Judge
and confirms the Decree
of the Munsiff - with
Costs in the Respondent's
favor.

Joseph Amalal

Plaintiff

Laxman Ram Das
Respondent

MEMORANDUM OF COSTS incurred in Special Appeal No. 302

of 1864 against the decision of the acting *Sp^l* judge of the District of Poona and disposed of on the 15th Aug^r 1864 by reversing the decree of the acting *Sp^l* judge and confirming that of the *M^o* with Costs.

BY THE APPELLANT—

In the District.				
In the <i>M^o</i> Court	.....	38	15	1 ✓
In the acting <i>Sp^l</i> judge's Court	.....	15	6	5 ✓
In this Court.			54	5. 6. ✓
Stamp for Memorandum of Special Appeal	.....	32	"	" ✓
Stamps for copies of Decree and Judgment	.....	3	"	" ✓
Stamp for Vukeelutnama	.....	2	"	" ✓
Batta for Process and Postage	.....	1	6	" ✓
Sectioner's Fee	.....	1	4	3 ✓
Vukeel's Fee	.....	14	6	5 ✓
			54	" 8 ✓
		Rupees	108	6 2 ✓

BY THE RESPONDENT.

In the District.				
In the <i>M^o</i> Court	.....	57	8	5 ✓
In the acting <i>Sp^l</i> judge's Court	.....	49	13	2 ✓
In this Court.			107	5 7 ✓
Stamp for Vukeelutnama	.....	2	"	" ✓
Vukeel's Fee	.....	14	6	5 ✓
			16	6 5 ✓
		Rupees	123	12 " ✓



Cyrene
Acting Registrar

Cyrene
Sealer
The 15th day of August 1864