

In the High Court of Judicature, Bombay.

Tue day, the 12th day of August 1864.

SPECIAL APPEAL No. 315 of 1864

*Tuka and Nana Wulud Gunoo
Mahar of the Ahmednagar Dis-
trict*

Appellants

(Original Defendants)

versus

*Punja Wulud Luktui Mahar
of the Ahmednagar District*

Respondent

(Original Plaintiff)

Rs. 28-9-6-

The claim in the Original Suit was to recover $\frac{1}{2}$ of a third share of the Malis wutton of Village Russee

In Appeal No. 342 of 1861 the *Judge* of the District of *Ahmednagar* at *Ahmednagar* confirmed the Decree of the *Judge of Appeal* who had awarded the claim.

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the *District Judge* is contrary to law in that according to Act VI of 1843 service wuttons are not to be divided and persons

persons doing no service are only to receive their shares from the profits after deducting the (necessary) charges on account of service but in this case notwithstanding that the Respondent was doing no service he was awarded a share in the wutton which should not have been done that (2) a substantial error in law has occurred in the investigation of the case which has produced error in the decision of the case upon its merits in that a claim for a share in the service wutton does not lie it was therefore an error not to have laid this point for consideration that (3) the onus probandi has been wrongly thrown on the Appellant who is in possession whereas it ought to have been thrown on the Respondent

The Court confirms the decree of the District Judge with costs on the Special Appellant.

App. by T. S. S. S.
Alexander S. S. S.

MEMORANDUM OF COSTS incurred in Special Appeal No. 315

of 186 4 against the decision of the Judge of the District of *Shimoga* and disposed of on the 12th August 1864 by *Confirming the same with Costs.*

BY THE APPELLANT

In the District.

In the <i>Moonsiff's Court</i>	5	19		
In the <i>Judges Court</i>	7	13	2	
				12 14 11

In this Court.

Stamp for Memorandum of Special Appeal	2	"	"	
Stamps for copies of Decree and Judgment	4	"	"	
Stamp for Vukeelutnama	2	"	"	
Batta for Process and Postage	"	"	"	
Sectioner's Fee	1	9	"	
Vukeel's Fee	"	13	9	
				11 19

Rupees 24 " 8.

BY THE RESPONDENT.

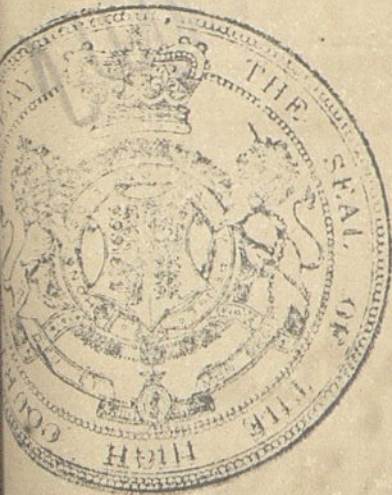
In the District.

In the <i>Moonsiff's Court</i>	7	11	8	
In the <i>Judges Court</i>	12	11	3	
				20 6 11

In this Court.

Stamp for Vukeelutnama <i>two</i>	4	"	"	
Vukeel's Fee	"	13	9	
				4 13 9

Rupees 25 4 8.



C. J. M. S.
Sealer

C. J. M. S.
Acting Registrar

12th day of August 1864.