

In the High Court of Judicature, Bombay.

Tues - day, the 16<sup>th</sup> day of August 1864.

SPECIAL APPEAL No. 317 - of 1864.

Annaji Purushram of the  
Satara District

Appellant

(Original Plaintiff)

versus

Pandurangacharya bin Balacharya  
and Venkutatacharya bin Pandurangacharya  
Tonaps Infaudar of the  
Satara District

Respondents

(Original Defendants.)

Rs. 3000 — " — "

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

In ~~Case~~ Appeals Nos 345 & 428 of 1863 the Judge of the District of Satara at Satara reversed the Decree of the ~~Judge~~ <sup>Judge</sup> of Satara who had awarded the claim and threw it out with costs.

A Special Appeal was preferred in the High Court on the grounds that (1) there have been errors in Law in the investigation of the case which have produced substantial errors in the decision of the case on its merits,  
in

in that,

(a) The Lower Court has not raised the proper issues which were—

(1<sup>st</sup>) Whether the bond N<sup>o</sup> 2 was proved, and the money therein mentioned paid by the appellant Stunaji into Court, on account of both the Respondents?

(2<sup>nd</sup>) Whether independently of bond N<sup>o</sup> 2, the present claim being that of a security against his principals, could not be maintained, and if so, is it proved?

3<sup>rd</sup> To what extent were Defendants N<sup>os</sup> 1 and 2 (Respondents) respectively answerable for the Plaintiff's claim? and how was that claim to be satisfied?

II It is against Law in that.

(a) It is against evidence

(b) It is against the admission of the two respondents.

(c) It lays down, by implication, that a matter is not bound by the acts of his general or special agents.

(d) It ignores Venkates' (Respondent N<sup>o</sup> 2's) interest in the disputed property.—

(e) It does not take into account the resignation of Defendant N<sup>o</sup> 1 in favor of Defendant N<sup>o</sup> 2.—

(f) It gives no decree against the legal and equitable property as well as the person of Defendant N<sup>o</sup> 2 whom the Court considered responsible.—

(g) It makes a mortgage without possession absolutely void according to Hindu Law which it is not.

The Court modifies the decree

of the District Judge by awarding  
the amount claimed against  
Venkut personally with interest  
thereon at 12 per cent <sup>by this</sup> <sup>costs throughout,</sup>  
date of this decree, and further  
interest at 9 per cent on the  
sum aggregati<sup>n</sup> sum so adjudged  
and on the <sup>said</sup> costs of the ~~suit~~  
from the date of this decree  
until the day of payment.

With regard to the  
claim against Pandorum, the  
Court reports that it is obliged  
to refer Plaintiff to another  
suit.

Joseph Arnold  
H. Weston,

Alexander S. P. Dwyer

MEMORANDUM OF COSTS incurred in Special Appeal No. 317.

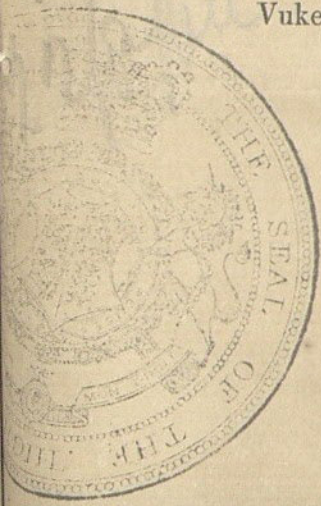
of 186 4 against the decision of the judge ----- of the  
 District of Satara and disposed of on the 16<sup>th</sup> August 1864  
 by modifying the said decree

BY THE APPELLANT—

In the District.			
In the <u>Moonseiff's Court</u> .....	286	14	3
In the <u>Judges Court</u> .....	145	2	6
In this Court.			432 " 9
Stamp for Memorandum of Special Appeal .....	100	"	"
Stamps for copies of Decree and Judgment .....	4	"	"
Stamp for Vukeelutnama .....	2	"	"
<i>Stamp for application for a motion to attach property</i>	2	"	"
Batta for Process and Postage .....	10	2	"
Sectioner's Fee .....	6	11	"
Vukeel's Fee .....	80	"	"
			204 15 "
			197 13 "
			636 15 9
			Rupees.... 629 15 9

BY THE RESPONDENT'S.

In the District.			
In the <u>Moonseiff's Court</u> .....	93	7	"
In the <u>Judges Court</u> .....	210	8	"
In this Court.			303 15 "
Stamp for Vukeelutnama .....	2	"	"
Vukeel's Fee .....	80	"	"
			82 " "
			Rupees.... 385 15 "



*Y. M. S.*  
 Sealer

*C. J. M.*  
 Acting Registrar

16<sup>th</sup> day of August 1864.