

Poona

In the High Court of Judicature, Bombay.

Monday, the 15 day of August 1864

SPECIAL APPEAL No. 318 of 1864.

Imam Mulud Mulickbhai
of the Poona District ————) Appellant
(Original Plaintiff ————)

VERSUS

Bapoo Mulud Balikhan
deceased his son and heir Babaji) Respondent
of the Poona District ————)
(Original Defendant) ————

Rs. 25 — " — "

The claim in the Original Suit was to recover possession of a house

In Appeal No. 1087 of 1862 the Assist Judge of the District of Bevoorah at Bevoorah confirmed the Decree of the Miffy Tullegam who had thrown out the claim

A Special Appeal was preferred in the High Court on the grounds that ~~it is~~ the decision of the Assis^t Judge is ~~in~~ contrary to law or usage having the force of law in that.

(a) the appellant claiming under an adoption a Marus putra was not recognised as

as entitled to the property claimed by him.

(b) The widow of Mullickbhai being entitled in her own right to the property she was held incompetent to alienate it, or at all events the document was ~~was~~^{not} held good to the extent of her interest, which the Court below did not ascertain.

and that (2) there has been a substantial error in law in the procedure of the case which has produced error in the decision of the case on the merits in that-

(a) The Court below did not require into the local usage of the Mahomedan community in regard to adoption and Waniputras.

~~The Court reverses the decree of the lower Judge, & remands this case~~

The Court considers that though the Plaintiff in this case was not entitled to claim the whole of the estate as the adopted son of Mullickbhai, yet he might be entitled to claim under the Waniputra as much as Mullickbhai's widow was competent to convey the same.

The Court therefore views the beam
of the Court Judge, & remands the
case for a decision on the point

What was the share wth the
widow of Muleekbhace was
entitled ^{to her own right,} to convey by the
Warrisputri ~~in her own right as~~
~~trahentis~~ ^{as heir of her husband?}

a decision to be given
on merits. & costs to follow.
the final decision

Joseph Amouls
Hewson
Lawrence & Poirer

MEMORANDUM OF COSTS incurred in Special Appeal No. 318

of 1864 against the decision of the *Assistant Judge* of the District of *Poona* and disposed of on the *15th August 1864* by *remanding the same for retrial*

IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment	3	0	0	✓
Stamp for Vukeelutnama	2	0	0	✓
Batta for Process and Postage	15	0	0	✓
Sectioner's Fee	14	0	0	✓
Vukeel's Fee one-fourth	3	0	0	✓
		7	0	✓
Rupees		7	0	✓

BY THE RESPONDENT—

Stamp for Vukeelutnama	2	0	0	✓
Vukeel's Fee one-fourth	3	0	0	✓
		2	3	✓
Rupees		2	3	✓



Gyome
Sealer

Gyome
Acting Registrar

The 15th Aug of August 1864.

Issued a certificate on Her Majesty's
Treasury the Bank of Bombay for the
refund of Rupees two (2) being
the value of stamps used for
Special appeal in this case

James
Acting Registrar

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~~21/11/11~~

Acting Registrar

James