

In the High Court of Judicature, Bombay.

Monday, the 29th day of August - 1864.

SPECIAL APPEAL No. 320 of 1864.

Sukharam bin Balapa
of the Solapur Dis-
trict — (Original Defendant).

Appellant,)

VERSUS

Savitreebai Ram Suda-
shiv of the Solapur
District — (Original Plaintiff)

Respondent,)

Rs. 92-0-0

The claim in the Original Suit was to recover a *United field* comprising 49 acres and 26 guntas ~~and~~ in the village of *Ram* -

In Appeal No. 272 - of 1861 - the *Judge* of the District of *Pholapur* at *Pholapur*, on remand, *re-* the Decree of the *Judge of Akhad* who had thrown out the claim -

A Special Appeal was preferred in the High Court on the ground that the District Judge was wrong in point of law in not admitting secondary *&* evidence of the contents of a written document

documents which is missing from the records of Government.

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

Joseph Arnold
Attentive Forbes
Hewitt

MEMORANDUM OF COSTS incurred in Special Appeal No. 320

of 186 4 against the decision of the Judge ----- of the
 District of Solapoor, and disposed of on the 29th Aug^t 1864
 by Confirming the same with Costs

BY THE APPELLANT—

In the District.

In the Moonceiff's Court	7 14 11	✓
In the Judge's Court (including Reg. Fee)	16 2 2	✓
	<hr/>	24 1 1 ✓

In this Court.

Stamp for Memorandum of Special Appeal	8 " "	✓
Stamps for copies of Decree and Judgment	3 " "	✓
Stamp for Vukeelutnama	2 " "	✓
Batta for Process and Postage	1 4 "	✓
Sectioner's Fee	" 11 "	✓
Vukeel's Fee	2 12 2	✓
	<hr/>	17 11 2 ✓
Rupees....		41 12 3 ✓

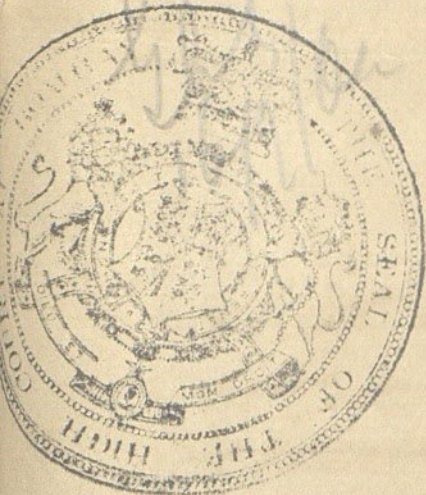
BY THE RESPONDENT.

In the District.

In the Moonceiff's Court	24 6 11	✓
In the Judge's Court	21 14 2	✓
	<hr/>	46 5 1 ✓

In this Court.

Stamp for Vukeelutnama	2 " "	✓
Vukeel's Fee	2 12 2	✓
	<hr/>	4 12 2 ✓
Rupees....		51 1 3 ✓



Cyrene
 Sealer

The 29th day of August 1864

Cyrene
 Acting Registrar

મુંબઈ એવીજન્યાયાથી દ્વરી ઘણેસંતાં.

~~પ્રથમ જાતરીથી ૨૦ મઠે સુધી ૭૧૧૬૬૪~~

~~સેન્દ્રી અષ્ટાધીજનંધાર ૩૨૦ ૭૧૧૬૬૪~~

~~પ્રથમ અષ્ટાધીજનંધાર ૩૨૦ ૭૧૧૬૬૪~~

શબીરેંગ.

~~૨૨૧ મુક.~~

~~(મુક. ૨૨૧)~~

પ્રતીબક્ષી.

~~૨૨૧ મુક.~~

ગી૭વોરેંગ.

~~૨૨૧ મુક.~~

~~(મુક. ૨૨૧)~~

સમથે. ૯૨

~~૨૨૧ મુક.~~

~~૨૨૧ મુક.~~

~~૨૨૧ મુક.~~

~~૨૨૧ મુક.~~

७६१४६१

मुम्बई नगरपालिका

१६६२६२

कृषि विभाग, मुम्बई -

एम्प्लोयर्स एन्ड वर्कर्स

२४६१६१

१७६१६२

याज्ञिक विभाग

८ एम्प्लोयर्स एन्ड वर्कर्स

एन्ड

३ एम्प्लोयर्स एन्ड वर्कर्स

एन्ड

२ एम्प्लोयर्स एन्ड वर्कर्स

१६४ कृषि विभाग, मुम्बई

६१ कृषि विभाग, मुम्बई

२६१२६२

एम्प्लोयर्स एन्ड वर्कर्स

१७६११६२

२४६६६१

मुम्बई नगरपालिका

२१६१४६२

कृषि विभाग, मुम्बई

४६६२६१

४६१२६२

याज्ञिक विभाग

२ एम्प्लोयर्स एन्ड वर्कर्स

२६१२६२

एम्प्लोयर्स एन्ड वर्कर्स

४६१२६२

२१६१६१

४१६१२६२

उत्तर

मुम्बई नगरपालिका
कृषि विभाग

मुम्बई नगरपालिका, ४१६१२६२

कृषि विभाग

True Translation

Handwritten Signature

1st class Registrar

It is objected

Appellant

Respondent

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That the decision is contrary to law in that the land in dispute being "Government land" and the person in whose name it was entered last having given it up under a Rajinama, the Government authorities gave it to the appellant on taking an agreement from him and therefore no claim should have been preferred against him but against the person who gave it to him.

2. That a substantial error in law has occurred in the investigation of the case which has produced an error in the decision of the case on its merits, in that the Moonsiff threw out the claim on the evidence in the case without sending for the paper from the Revenue authorities to prove that the Respondent had given up the land - although the Appellant prayed that the said paper may be called for - wherefore the Appellate Court should if it doubted the fact of the Respondent having relinquished her claim over the land, have called for the original paper or it should have remanded the case and should not have upheld the claim on the ground that the land was taken by

the

the Appellant without the Respondent had
given it up under a Rajinama.

Registered

28/3/62

Edw. M. N.

November 18th 1861

In the Zilla Court of Sholapoor

Appeal No:
272 of 1861

Former judgment

Savitreebacc Tom
Sudasew

} Appellant.

versus

Sukharam wd. Ba.
Lapa

} Respondent.

for Rupees 92 .. for Miras land

This action was brought by Savitree to recover a miras field No. 209, comprising ^{acres} 49-^{guntas} 26, and assessed at 17 Rs, in the village of Kem, talookha Kurmulla, the plaintiff stating that her husband and she cultivated the field for many years, and that it was their Miras land, that in 1259 Pchusly, being too poor to cultivate, she allowed the land to lie waste - and in the 3rd year, resumed it again, taking one Mahadoo as her partner; that the Village Officers then fraudulently inserted Mahadoo's name as a Mirasdar as well as hers, & that through their

their collusion, & Mahadoo's, Sukha-
-ram got possession of the land, in
1265 Phusly - she therefore sued
to oust Sukharam laying her claim
at

17 Rs for the field
+ 75 Rs for a well
Total 92 Rs

Sukharam replied that
the land was not Savitree's Mirās;
that she and Mahadoo were part-
-ners in the land in 1262 Phusly;
that in October 1853 Savitree, be-
-ing unable to pay for the expenses
of keeping up the boundary marks,
agreed to relinquish the land in 8
days, if she failed to pay the amount;
& that on 21st June 1856, Mahadoo
also presented a Razeenama in
his (Sukharam's) favor.

The Moonsiff found it
established, that the land was
Savitree's Mirās, but held, though
no written razeenama was forth-
-coming, that she must have relin-
-quished

= quished all claim to the field and
was fraudulently claiming the field
solely because Sukharam had re=
= paired the well and improved the
land.

Dissatisfied, Savitree ap=
= peals; and the question for decision
being, whether Sukharam is enti=
= tled to deprive Savitree of her
Mirās field, when no regular razeen=
= nama has been presented by her
in his favour, the Court holds that
he is certainly not: and that if
Sukharam had been acting in the
matter in good faith, he would not
have failed to obtain Savitree's
formal razeenama before expending
money on the land. having failed
to obtain a razeenama from the
real mirasdar, he has only himself
to blame for any loss he may sus=
= tain

The Moonsiff's decree is
reversed, and the appeal admitted
with all costs on Sukharam

Signed

Signed J. A. Compton
Judge

Signed and dated
in Court on delivery
this 18th day of Novem-
ber 1861

(True Copy)

~~Amended~~

And we have
discharge of liability

J. A.

2284