

Kankar

In the High Court of Judicature, Bombay.

Monday, the 29<sup>th</sup> day of August — 1864.

SPECIAL APPEAL No. 325 of 1864.

Atmaram Balkrishna of the  
Konkan District — — — — —

Appellant

(Original Defendant.)

versus

Bhaoo Jawurshet, deceased, his  
sons and heirs Sukharam and  
Gunputi of the Konkan Dis-  
trict — — — — — (Original Plaintiffs)

Respondents.

Rs. 69-10-1.

The claim in the Original Suit was to obtain possession of a field in Ghosal. The Plffs alleged that it was his family property and his uncle Mahadev had mortgaged it and afterwards borrowed the money to redeem it from Atmaram, whom he made over the field in pledge, and now claimed to redeem it. In Appeal No. 275 — of 1863 the Asst. Judge of the District of the Konkan — at Panaji affirmed the Decree of the Juff of Coln — who had decided in favor of the Plffs.

A Special Appeal was preferred in the High Court on the grounds that (1) there has been an error in law in the procedure of the case which has produced error in the decision of the case upon the merits in

in that.

- (a) The Plaintiff having failed in proving his case, the onus probandi has been wrongly thrown upon the Appellant "to prove his title to it."
- (b) Evidence of Bhawoo's right to redeem having determined has been required, when upon the face of the mortgage deeds and by the Plaintiff's own shewing the time limited for redemption had already expired.
- (c) The whole of the Appellant's evidence has not <sup>been</sup> received whereby (the onus having been wrongly thrown upon him) he has been greatly prejudiced.
- (d) The field in dispute was mortgaged in two parts to two persons, vizt. Baput and Govilkur; and both of them have been erroneously awarded to the Plaintiff.

The Court confirms the Decree of the 1st Judge with costs on Special Appellant.

Jeph. Arnold.  
Att. Gen. for the  
Plaintiff.

MEMORANDUM OF COSTS incurred in Special Appeal No. 325

of 1864 against the decision of the *Aps<sup>ts</sup> Judge* --- of the District of *the Kontum* and disposed of on the *29<sup>th</sup> Aug 1864* by *Confirming the same with Costs.*

BY THE APPELLANT—

<i>In the District.</i>		
In the <i>Moonuff's Court</i> - .....	6 12 5	
In the <i>Aps<sup>ts</sup> Judge's Court</i> .....	12 7 5	
<i>In this Court.</i>		19 3 10
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 9 "	
Sectioner's Fee .....	1 14 9	
Vukeel's Fee .....	2 15	
		18 9 2
Rupees.....		37 13 "

BY THE RESPONDENT

<i>In the District.</i>		
In the <i>Moonuff's Court</i> .....	19 8 5	
In the <i>Aps<sup>ts</sup> Judge's Court</i> .....	4 15	
<i>In this Court.</i>		23 9 10
Stamp for Vukeelutnama .....	2 "	
Vukeel's Fee .....	2 15	
		4 15
Rupees.....		27 13



*C. G. M.*

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*Acting Registrar*

*The 29<sup>th</sup> day of August 1864*

*Sealer*