

In the High Court of Judicature, Bombay.

Thurs day, the 18th day of August 1864.

SPECIAL APPEAL No. 330 of 1864.

Gopal Laddo Bhandarkar
of the Putnagiri Collectorate } Appellant

_____ (Original Plaintiff)

versus

Balay None Turub of the
Putnagiri Collectorate } Respondent

_____ (Original Defendant.)

Rs. 127-2-2

The claim in the Original Suit was to recover rent with interest of two *thikais* for six years

In Appeal No. 76 of 1861 the Act. Collector of the District of Putnagiri at Putnagiri confirmed the Decree of the *Mansabdar of Malwan* who had thrown out the claim

A Special Appeal was preferred in the High Court on the grounds that ~~the~~ the decision of the Acting Collector is contrary to law in that.

(a) The Court below required documentary evidence.

evidence to support the appellants case. He not having kept any private Books no books were produced, nor was he required to produce any.

(b) It has been admitted by the opposite party (26) that he was bound to pay the interest upon the bond as well as the rent and it is clear that he has already been allowed credit for the interest as will be seen from the Decree No. 32.

(c) As the defendant was liable to two debts at the time of making the alleged payments, and as he did not at that time expressly direct the appropriation of them to any particular debt, it was quite competent for the Appellant as the creditor to appropriate them to whichever debt he pleased.

(d) The opposite party having received credit for the alleged payments in the action upon the bond and the position of the Appellant being now irrevocably altered, the opposite party cannot now plead satisfaction of the present claim to the prejudice of the Appellant. and

(c) The opposite party pleads payment of Rupees 96-2-9 and the Appellant has already given credit to Defendant in the present suit equivalent to Rs 42-12-.. the opposite party thus obtains double credit for the latter sum under the decree of the lower court.

The Court confirm the decree of the Acting Collector with costs on the Special Appellant.

H. P. S. S. S.

[Signature]

MEMORANDUM OF COSTS incurred in Special Appeal No. 330

of 1864 against the decision of the *Acting Collector* of the District of *Pattadakri* and disposed of on the 18th Aug 1864 by *Confirming the Same with Costs*

BY THE APPELLANT—

<i>In the District.</i>			
In the <i>Mauledari Court (including V. Fee)</i>	15 2	✓	
In the <i>Acting Collector's Court (including V. Fee)</i>	14 14	✓	
			30
<i>In this Court.</i>			
Stamp for Memorandum of Special Appeal	8	✓	
Stamps for copies of Decree and Judgment	3 8	✓	
Stamp for Vukeelutnama	2	✓	
Batta for Process and Postage	1 8	✓	
Sectioner's Fee	6 3	✓	
Vukeel's Fee	3 13	✓	
			19 3 3
			Rupees.... 49 3 3

BY THE RESPONDENT.

<i>In the District.</i>			
In the <i>Mauledari Court</i>	9 9	✓	
In the <i>Acting Collector's Court</i>	4 13	✓	
			14 6
<i>In this Court.</i>			
Stamp for Vukeelutnama	2	✓	
Vukeel's Fee	3 13	✓	
			5 13
			Rupees.... 20 3



Same
Sealer

Same
Acting Registrar

18th day of August 1864.