

In the High Court of Judicature, Bombay.

Class day, the 18th day of August 1864.

SPECIAL APPEAL No. 338 of 1864

Govindras Venayek Naik Sur
Patel Inamdar of the Konkun
District _____
_____ (Original Plaintiff) } Appellant

versus

Kalia bin Condeer Dakee of
the Konkun District _____
_____ (Original Defendant) } Respondent

Rs. 17-12--

The claim in the Original Suit was to obtain possession
of two fields.

In Appeal No. 273 of 1863 the Assist Judge
of the District of Konkun at Tannah reversed
the Decree of the Mag of Blivonde who had awarded the
claim and threw it out.

A Special Appeal was preferred in the High Court on the grounds that ~~xxx~~ Sub-
stantial errors in law in the investigation of the
case have been made which have produced
errors in the decision of the case upon its
merits.

(1)
merits in that the Assistant Judge was in error in giving no opinion on the genuineness or otherwise of the lease in question - that (2) it is incompetent for a tenant to question the title of his land-lord and that (3) the Assistant judge was in error in holding that since the survey the Respondent should be considered as the tenant of government and appellant has no right to eject him.

The Court considered that the following material issues arise in this case.

- 1st Is the execution of the agreement No 3 by the Dept to the Puff established.
- 2nd If so, what was the 'status' of the parties at the time of the agreement was entered into and is Puff under the said agreement entitled to eject the Dept from the occupation of the land.
- 3rd If the execution is not proved has Puff established any right to eject the Dept.

To come to a correct decision on the second issue it will be necessary for the lower Court to determine what was the precise character of the rights possessed by the Inamdar at the time the agreement

was made, and whether Deft
at the same time possessed an
hereditary right of occupancy in
limitation of the Plaintiff's rights.

The Court therefore reverse
the decree of the Assistant Judge
and remand the suit that
these, and any other issues
which the lower Court ~~may~~
think necessary, may be determined
and a new decree passed
awarding costs.

H P G Fisher

D D Ward

MEMORANDUM OF COSTS incurred in Special Appeal No. 338

of 1864 against the decision of the Assistant Judge of the District of the Konkan and disposed of on the 18th August 1864 by *remanding the same for retrial.*

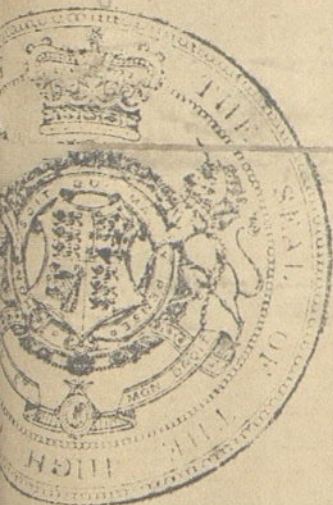
IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment	2	"	1/5		
Stamp for Vukeelutnamas <i>two</i>	4	"	1/5		
Batta for Process and Postage	"	15	"	5	
Sectioner's Fee	"	9	3	5	
Vukeel's Fee one-fourth	"	2	1	5	
				7	10 4/5
				Rupees	7 10 4/5

BY THE RESPONDENT—

Stamp for Vukeelutnama	2	"	1/5		
Vukeel's Fee one-fourth	"	2	1	5	
				2	2 1/5
				Rupees	2 2 1/5



E. J. M. M.

Sealer

The 18th day of August 1864.

E. J. M. M.
Acting Registrar

