

In the High Court of Judicature, Bombay. (101)

Fri day, the 19th day of August 1864

SPECIAL APPEAL No. 362 OF 1864

Narayan Sudashiv
of the Konkan

Appellant

District — (Original Defendant)

versus

Lakshminbai Wife
of Bhi Maji Kashi

Respondent

— natth of the Konkan

District — (Original Plaintiff)

Rs. 64 - - - -

The claim in the Original Suit was to recover a piece of ground in Blewandi Lakshminbai alleging that it was hers by inheritance and that Charayun had built on it 5 months ago, and claiming the removal of the building.

In Appeal No. 21 of 1863 the Asst. Judge of the District of the Konkan at Tanna affirmed the Decree of the Mff of Blewandi who had awarded that the building should be removed to the extent of 50 cubits by one cubit and a two.

A Special Appeal was preferred in the High Court on the grounds that there has been a substantial error in law in the procedure of the case which has produced error in the decision.

decision upon the merits in that

(a) The opposite party being a plaintiff in trespass; not having proved either a title to, or possession of the ground in dispute the case was decided upon what the courts below deemed a want of title in the Appellant.

(b) The property in the land in dispute having been divested from the opposite party so long ago as 1843 by the sale under No. 28, the absence of right in her has not been considered by the courts below.

(c) The court below has made a misapprehension of its duties in that greater weight has been allowed to the judgment of the subordinate court than was proper, the Judge acting on his personal knowledge of the Mesniff's honesty and verities. Also in that the Mesniff made a personal inspection of the premises such not being allowed by law.

The Court confirms the decree of the Ass't Judge with costs on Special Appeal.

Jeff. Arnold

H. Newton

MEMORANDUM OF COSTS incurred in Special Appeal No. 362

of 186 4 against the decision of the *Assistant Judge* of the District of *the Konkan* and disposed of on the *19th Aug^r 1864* by *Confirming the same with Costs.*

BY THE APPELLANT—

<i>In the District.</i>			
In the <i>Moonseiff's Courts</i>	7 2 "	✓	
In the <i>Asst^d Judge's Court</i>	7 14 9	✓	15 " 9 ✓
<i>In this Court.</i>			
Stamp for Memorandum of Special Appeal	4 " "	✓	
Stamps for copies of Decree and Judgment	3 " "	✓	
Stamp for Vukeelutnama	2 " "	✓	
Batta for Process and Postage	1 3 "	✓	
Sectioner's Fee	1 9 6	✓	
Vukeel's Fee	1 14 9	✓	13. 11 3. ✓
	Rupees....		28 12 " ✓

BY THE RESPONDENT.

<i>In the District.</i>			
In the <i>Moonseiff's Courts</i>	11. 13 "	✓	
In the <i>Asst^d Judge's Court</i>	2. 14 9	✓	14. 11 9 ✓
<i>In this Court.</i>			
Stamp for Vukeelutnama	2 " "	✓	
Vukeel's Fee	1 14 9	✓	3. 14 9 ✓
	Rupees....		18 10 6 ✓



U. M. M.
U. M. M.
 Sealer

U. M. M.
 Acting Registrar

J. L. 10th Aug^r 1864.