

Sattara

In the High Court of Judicature, Bombay.

Fri day, the 2nd day of *September* 1864

SPECIAL APPEAL No. 311 of 1864

Yelaji bin Balaji
Burge Patel of the Sattara
District (Original Plaintiff)

Appellant

versus

Pitai Ram Sanji Burge
and Kainai Ram P.
Sanji Burge and Ba.
Sanji bin Gopal Sonar
and Hurgis bin
Shitoo Gadhoo of the Sattara
District - (Original Defendants)

Respondents

Rs. 128-14-6-

The claim in the Original Suit was to *recover half a field*
of Mam land

In Appeal No. 311 of 1863 the *Judge*
of the District of *Sattara* at *Sattara* reversed
the Decree of the *P. S. Ameer* who *decreed for Plaintiff*

A Special Appeal was preferred in the High Court on the grounds that (1) *there*
have been errors in Law in the in-
-vestigation of the Case which have
produced substantial errors in the
decision

decision of the case on its merits,
in that,

- (a) The issues have not been properly laid by the Lower Court, they should have been
1st Who are the proprietors of the disputed land.
2^d And if the Plaintiff be one of them is he entitled to the share he seeks.

(b) If the lower Court thought that the Plaintiff should have decided whether the land was Jodi or Inam, it ought to have either decided that point, or returned the case for further investigation.

(c) The Shabulajat (agreement) has been misconstrued by the lower Court.

II

in that,

- (a) It is against law & provisions of the Defendants Nos. 1, 2, and 4.
- (b) Government land can be family property, whereas the lower Court has held it not to be so.
- (c) The attestations of witnesses are condemned because they cannot write their names.
- (d) A tenant is estopped from questioning the proprietary right of his landlord.
- (e) Agreement to cultivate for five years at a certain rent estops tenant from questioning the proprietors right to eject him after 5 years.

The Court reverses the Decree
of the District Judge, and
Confirms that of the Principal
Suds Ameen. with costs on
Respondents

Joseph Amsald
J. Weston.

