

In the High Court of Judicature, Bombay.

Thursday, the 13 day of October 1864

SPECIAL APPEAL No. - 382 - of 1864.

Pandji his Panji &
Naik Father of the
Putnagiri Division
of the Ponkan District
(Original Defendant)

Appellant

versus

Pandorung Narayan
Kani deceased, his son and
heir Atmaram, of the
Putnagiri Division
of the Ponkan Dis-
trict
(Original Plaintiff)

Respondent

Rs. 201-0-0

The claim in the Original Suit was to *cause to be put in possession*
of a certain *Thikra* alleged to have been mortgaged to him (Paunder
- sing) by one Vittoo -

In Appeal No. 104 of 1862 the *Acting Senior Assistant Judge*
of the District of *the Konkan at the detached station of Putnagiri* confirmed
the Decree of the *Magistrate at Malwan* who had awarded the claim -

A Special Appeal was preferred in the High Court on the grounds that (1) *substantial errors in law in the in-
-vestigation of the case have been*
made

made which have produced errors in the decision of the case on its merits, in that Vittas the alleged purchaser from Babajee and who mortgaged the property to the Respondent states in his statement No. 65 that he never purchased it from Babajee nor paid any thing for it nor he had mortgaged it to the Respondent. Under these circumstances the Senior assistant Judge was in error in upholding both the documents, that (2) the appellants' deed of sale which is accompanied with possession is preferable to the sale to Vittas and mortgage by him to the Respondent since the latter's deed of sale and mortgage are not accompanied with possession. The sitting Senior assistant Judge was therefore in error in not giving preference to the former, and that (3) the sitting Senior assistant Judge was in error in not awarding the appellants to retain possession of the property, and awarding the mortgage money to the Respondent.

The Court confirm the Decree of the
S. A. J. with costs to the app't

H. J. D. S. S.

A. M. W. S.

MEMORANDUM OF COSTS incurred in Special Appeal No. 382

of 186 4 against the decision of the Acting Senior ^{Judge} of the District of the Munkon and disposed of on the 13th October 1864 by confirming the same with costs

BY THE APPELLANT—

In the District.			
In the Moonseiff's Court (including V. Fee)	23	11	6
In the Senior ^{Judges} Court	24	11	"
			486 6
In this Court.			
Stamp for Memorandum of Special Appeal	16	"	"
Stamps for copies of Decree and Judgment	3	"	"
Stamp for Vukeelutnama	2	"	"
Batta for Process and Postage	18	"	"
Sectioner's Fee	1	3	9
Vukeel's Fee	6	"	6
			29 12 3
Rupees			78 29

BY THE RESPONDENT.

In the District.			
In the Moonseiff's Court	36	8	"
In the Senior ^{Judges} Court	6	8	6
			43 " 6
In this Court.			
Stamp for Vukeelutnama	2	"	"
Vukeel's Fee	6	"	6
			8 " 6
Rupees			51 1 "



W. S. S.
For Sealer

W. S. S.
Collecting Registrar

The 13th day of October 1864