

Salacia

In the High Court of Judicature, Bombay.

Fri day, the 16th day of December 1864.

SPECIAL APPEAL No. 390 of 1864.

*Moolchand bin Pujaram
Gujar of the Satara District*
(Original Plaintiff)

Appellant,

versus

*Buhiroo Pandoorung and
Dujrung Sukharan of the
Satara District*
(Original Defendants)

Respondents,

Rs. 145-0-0

The claim in the Original Suit was to recover possession of a shop, on the expiration of the period for which it had been leased, and a portion of the rent remaining unpaid.

In Appeal No. 278 of 1863 the Judge of the District of *Pattana* at *Pattana* reversed the Decree of the *Moff. of Nategpote* who had awarded possession of the shop, but *dismissed* the claim for rent.

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the District Judge is contrary to law in that as the rent *Stole No. 2* did not require a stamp, the claim ought not to have been rejected on the ground that it

it did: that (2) there has been a substantial error in law in the investigation of the case which has produced error in the decision thereof upon its merits in that although exhibit N^o 2 shows that Buhiros was not in possession, (the Appellate Court) was in error in throwing it aside on the ground of its being on plain paper and holding that Buhiros was in possession: that (3) the mortgage N^o 5 containing a condition of sale (condition of foreclosure) required a stamp of 2 Rupees under Act XXXVI of 1860, it was therefore an error to have received it on evidence although it was only on a stamp of eight annas: that (4) the rent note N^o 2 being attested by Buhiros, he loses his right of mortgage. It was therefore an error to have decided, under the circumstances, that he had this right.

The Court confirms the Decree of the District

Judge, accepting each part thereof as declares
the foreclosure of the mortgage made by Wood-
clawd to Babcock, the point not having
been at issue between the parties, and being
determinable only in suits that may be brought
for redemption or foreclosure of the said mort-
gage.

Costs on Special Appellant, Woodclawd

Abner C. Forbes
H. H. Fisher.

MEMORANDUM OF COSTS incurred in Special Appeal No. 390

of 1864 against the decision of the Judge of the District of Sattara and disposed of on the 16th December 1864 by confirming the same with costs.

BY THE APPELLANT—

In the District.

In the Moonsiff's Court.....	23. 14..		
In the Judges Court.....	4 12..		
			27 10..

In this Court.

Stamp for Memorandum of Special Appeal	8. " "		
Stamps for copies of Decree and Judgment	3. " "		
Stamp for Vukeelutnama	2. " "		
Batta for Process and Postage	2. " "		
Sectioner's Fee	1 13..		
Vukeel's Fee	4. 5. 7		
			21 2. 7
			Rupees..... 48. 12. 7

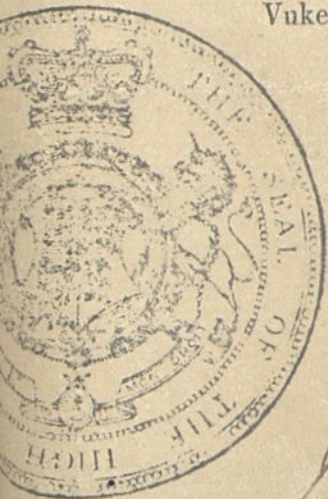
BY THE RESPONDENT.

In the District.

In the Moonsiff's Court.....	10. 5. 4		
In the Judges Court.....	14 12..		
			25 2. 4

In this Court.

Stamp for Vukeelutnama ^{two}	4. " "		
Vukeel's Fee	4 5 7		
			8 5 7
			Rupees..... 33. 7. 11



R. West
Sealer

R. West
Registrar

Done the 16th day of December 1864.