

Satara

In the High Court of Judicature, Bombay.

Tuesday, the 5 day of July 1864

SPECIAL APPEAL No. 41 OF 1864.

Sukharam Appaji of the Satara District
Appellant
(Original Plaintiff)

versus

Murri Bin Ranoo of the Satara District
Respondent
(Original Defendant)

Rs. 4 — 5 — 4

The claim in the Original Suit was to cause Murri to have his ~~app~~ Plaintiff name entered against ~~land~~ land.

In Appeal No. 198 of 1863 the ~~case~~ ~~of~~ ~~the~~ District of Satara at Satara. reversed the Decree of the ~~Magistrate~~ ~~at~~ ~~Pundapur~~ who had awarded in favor of Plaintiff.

A Special Appeal was preferred in the High Court on the grounds that ~~it~~ ^{of the District Judge} Because the ~~said~~ decree is contrary to law in that the Court below decided the case according to the survey rules and not according to the

principles of equity applicable to the case which is one in equity for a declaration of trust sought to be made by the Plaintiff in his favor in respect of land in which he had an interest. (2) Because the agreement need not have been stamped as held by the District Judge as it was a mere piece of evidence of the trust in the case and the objection was not taken by the Defendant. (3) Because the agreement was wrongly held to be unilateral and the trust in such cases is very commonly created and is quite consistent with the custom of the country. (4) Because the Court was in error in holding that because the Defendant's name was entered in the Government Khata as holder of the land in question therefore no one has any right to it.

The Court holding that the Judge has decided upon the road rule that the execution of the document on which the claim is founded is not proved. Affirms his Decree with costs.

H. H. Fisher.

L. A. and W. S. P. S. P.

Bill of Costs
By the Appellant
In the District

In the Moonsiff's Court ----- 8.2.1.
 In the Judges' Court (including V. Fee) ----- 1.2.1. 9.4.2.

In this Court

Stamp for Memo. of Special appl. ----- 1. " "
 Stamp for Copies of decree & judgt. ----- 1 8 "
 Stamp for Vukhalnama ----- 2 " "
 Batta for Process and Postage ----- 1.3 "
 Sectioner's Fee ----- 1.14.6
 Vukhal's Fee. ----- " 2.1. 7.11.7
Rspees 16.15.9

By the Respondent
In the District

In the Moonsiff's Court ----- 7.6.1.
 In the Judges' Court ----- 2.14.1. 10.4.2.

In this Court

Stamp for Vukhalnama ----- 2. " "
 Vukhal's Fee. ----- " 2.1. 2.2.1.
Rspees 12.6.3.



J. M. M.
Sealer

J. M. M.
Acting Registrar

The 5th day of July 1864.