

In the High Court of Judicature, Bombay.

Thurs day, the 7th day of April 1864.

SPECIAL APPEAL No. 42 of 1864

Shridhar Babji Kamat
of the Nonkun District
(Original Plaintiff)

Appellant

versus

Lakshman and Krishna and Raji
bin Gopal Mahatra of whom Raji de-
ceased his son and heir Pando a minor
by his uncles and guardians Lakshman
and Krishna of the Nonkun District
(Original Defendants)

Respondents

Rs. 5-10-5

The claim in the Original Suit was to recover possession
of one third of stone field purchased
at an auction held in execution
of a decree.

In Appeal No. 549 of 1862 the Acting Judge
of the District of Ronkuc at Chandrapur confirmed
the Decree of the Judge of Alibag who had thrown out
the claim with costs.

A Special Appeal was preferred in the High Court on the grounds that (1) the
decision of the District Judge is contrary
to usage having the force of Law, in that
although the Respondents have admitted the
separation

separation between him self and his uncle
Bapu to have taken place in the month of
Magh Shuk 1773. and although before that year
Bapu as head of the whole united family was
in management of the property in dispute and
although the Respondent was bound by the li-
abilities incurred and the agreements entered
into by him Bapu whilst managing the affairs
under the shastras the District Judge has not
allowed the claim but has rejected: that (2)
it being admitted that the parties were united
in interests at the time of the sales and mortgages
the Respondents should have been required to
prove the nature of the debts incurred before
separation and why he should not be held
liable therefor; and the lower Court should have
enquired into these points and not rejected the
claim without a consideration thereof: that (3) though
the appellants rights by purchase accrued after the
separation of the Respondent from Bapu, the Res-
-pondent was ^{not} therefore relieved from the agreements
made when they (he and Bapu) were united in
interests, and he cannot therefore now refuse to
fulfill those agreements: that (4) the Respon-
-dent not having shown that Bapu the managing
-lawfully the appellants claim should not
have been dis allowed by the appellate
Court contrary to the ruling in Nos 3618-
-3960 and registered No 286 of 1862.

The Court confirm
the decree of the District
Judge with costs

Whitlock Forbes.

J. Weston.

Bill of costs.

By the appellant

In the District

In the moonieff's Court (including r. fee) _____ 3 " 8
In the Judges Court _____ 3. 4. 8

6. 5. 4

In this Court

Stamp for memo. of special app^l _____ 1 - " "
Stamp for Copies of decree & judgment _____ 1 8 "
Stamp for Vindictiviana _____ 2 - " "
Batta for Process and Postage _____ 1 5 "
Sectioners Fee _____ 1. 6. 9
Vindict's Fee _____ " 2. 8

7. 6. 5

By the Respondents

In the District

In the moonieff's Court _____ 1. 12. 8
In the Judges Court _____ 1. 2. 8

2. 15. 4

In this Court

_____ " " "
Rupees 2. 16. 4

Rupees 13. 11. 9



West
Registrar

West

Dealer
The 7th day of April 1884