

In the High Court of Judicature, Bombay.

Now day, the 2 day of Oct 1865

SPECIAL APPEAL No. 422 of 1864

Jewshet Dandekar deceased
his son and heir Vitul Shet of
the Rutnagiri Division of the
Konkan District

Appellant

(Original Plaintiff)

versus

Lokool Doyal Gooyer and Cutum
Doyal and Sukshimibai deceased her
heir and nephew Ramchundr Shet
bin Antoshet of the Rutnagiri Divi-
sion of the Konkan District

Respondents

(Original Defendants)

Rs. 25-0-0

The claim in the Original Suit was to recover possession of

Certain property alleged to have been mortgaged
to the pff and afterwards forcibly wrested from
his possession

In Appeal No. 117 of 1863 the
of the District of the Konkan at
the Decree of the court at Dapoder who

Sen - a Judge
Rutnagiri nounced
had decreed for the

claim

A Special Appeal was preferred in the High Court on the grounds that (1) the
decision of the Senior Assistant Judge is op-
posed to law in that he was in error
in giving retrospective effect to act 14 of
1859

1859 and throwing out the claim as barred by the law of limitation that (2) according to Section I of Regulation 5 of 1827 a person cannot acquire prescriptive title to immoveable property unless he is in possession of it as a proprietor for upwards of 30 years the Senior Assistant Judge was therefore in error in throwing out the claim that (3) it was incompetent for the Senior Assistant Judge to throw out the claim as barred by the law of limitation since the plea is not raised by the Defendants in their answer that (4) it was incompetent for the Senior Assistant Judge to re-open the question of limitation the same having been decided by his predecessor in favor of the Appellant in this very case that (5) the Senior Assistant Judge was in error in laying down only the point of limitation for trial and making incidental remarks to the prejudice of the Appellant as regards the merits of the case since he has not decided the case upon its merits.

The Court confirms
the decree of the Senior Assistant Judge
with costs.

H. Pendock Esq. Justice.

A. W. M. D. S.

MEMORANDUM OF COSTS incurred in Special Appeal No. 42

of 1864 against the decision of the *Sr. a. judge* of the District of *the Nonhem* and disposed of on the 2nd October 1865 by *confirming the same*.

BY THE APPELLANT—

<i>In the District.</i>			
In the <i>Mousiff's court</i> —	15	8	0
In the <i>Sr. assist. judge's court</i> —	1	4	0
			16 12 0
<i>In this Court.</i>			
Stamp for Memorandum of Special Appeal	2	0	0
Stamps for copies of Decree and Judgment	3	0	0
Stamp for ^{two} Vukeelutnamas	4	0	0
Batta for Process and Postage	1	9	0
Sectioner's Fee	1	3	6
Vukeel's Fee	0	12	0
			12 8 6
			Rupees 29 4 6

BY THE RESPONDENT—

<i>In the District.</i>			
In the <i>Miff's court (including V.L.)</i>	17	8	0
In the <i>Sr. assist. judge's court</i>	4	0	6
			21 8 6
<i>In this Court.</i>			
Stamp for Vukeelutnama	2	0	0
Vukeel's Fee	0	12	0
			2 12 0
			Rupees 24 4 6



W. J. Seal
Sealer

W. J. Seal
Deputy Registrar

The 2nd day of October 1865.