

In the High Court of Judicature, Bombay.

Eleven day, the 7<sup>th</sup> day of April 1864.

SPECIAL APPEAL No. 43 of 1864.

Krishnaji Gungadhar Gokhle } Appellant  
of the Konkan District }  
(Original Plaintiff)

versus

Nowkia bin Mankoji of the } Respondent  
Konkan District }  
(Original Defendant)

Rs. 13-6-7

The claim in the Original Suit was to recover possession of a half share of certain fields & trees wrongfully taken possession of by Deft

In Appeal No. 361 of 1862 the Acting Judge of the District of Konkan at Shamra reversed the Decree of the Miff of Madhad who had awarded the claim to the Deud only and threw out the whole claim

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 the fact of Respondent having been in possession for 15 or 16 years cannot affect the Appellant's right under Section 1 of Regulation 5.

of

of 1827: that (2) a substantial error in law has occurred in the investigation of the case which has produced error in the decision of the case — upon its merits in that, the Respondent not having pleaded that the property in dispute was not an ancestral Wuttun, but belonged only to Prabaji, should have been required to prove that he (Prabaji) alone was under the Shasters competent to dispose of it so as to justify the Respondent in purchasing it without the consent of the appellant and that on his failure to prove this such an illegal sale should not have been confirmed: (3) and that the decision in the suit should have been passed under the old limitation law viz; Regulation 5 of 1827 and not under the new one.

The Court confirm  
 the decree of the acting Judge  
 with costs

Abinash Forbes.

H. Newton.

Bill of costs

By the appellant  
 In the District

In the mooniff's court	4.6.5	
In Judge's court	1.6.5	5 12.10

In this court

Stamp for memo. of special app <sup>l</sup>	1 "	
Stamps for Copies of decree & judgment	2. 8 "	
Stamp for Vukhalutuanu	2 "	
Chatta for Process and Postage	1. 1. "	
Sectioner's Fee	1 " 9	
Vukheel's Fee	" 6. 5	8 " 2
		<u>Rspees. 13. 13 "</u>

By

By the Respondent  
In the District

In the Moonseffs Court \_\_\_\_\_ 5.57 ✓  
In the Judge's Court \_\_\_\_\_ 3.4.5. 8 10 "

In this Court

Stamp for Duktatunama \_\_\_\_\_ 2 " "  
Vutkeel's Fee \_\_\_\_\_ " 65 2.6.5

Rupees 11 " 5



West  
Sealer

West  
Registrar

The 7<sup>th</sup> day of April 1864