

In the High Court of Judicature, Bombay.

Thursday, the 21 day of July 1864.

SPECIAL APPEAL No. 44 of 1864.

Purushram Rughoonath Gawkur
deceased his nephew & heir Ganesh Ramchunder
of the Putnagiri Division of the
Konkan District

Appellant

(Original Defendant)

versus

Junardhun Phiosannut and Ru-
ghoonath Sabaji and Titul Mahad
Sannut and Ramchunder Gopal
Savant of the Putnagiri Division
of the Konkan District

Respondent

(Original Plaintiff)

Rs. 2-0-7 Pies

The claim in the Original Suit was to establish ^{Plaintiff's} title to a certain Thikana "Shelap" in the village Buroole and to be put in formal possession thereof.

In Appeal No. 200 - of 1862, the ^{of} Senior Asst. Judge of the District of the Konkan - at Putnagiri affirmed with costs on applⁿ the Decree of the ^{of} Magistrate who had decided in favor of the Plaintiff with costs.

A Special Appeal was preferred in the High Court on the grounds that (1) a substantial error in law in the investigation of the case has been made which has produced error in the decision of the case on

to

its merits in that the award is beyond
the claim in as much as the Plaintiffs
having brought this claim to recover
a piece of land bounded on the west
by the Hill the Senior Assistant Judge
was in error in awarding the land which
included the Hill itself and which the
Plaintiffs never asked for: that (2) the
claim being to recover a field "Shelup -
Bharud" which the Memo. ev. 30 filed
by the Plaintiffs shew that it only frays
2 1/2 shares of grain as an assessment and
the Pahani Kurda shews that it measures
only 13 ^{fronds} ~~fronds~~ the Senior Assistant Judge
was in error in awarding 2 1/4 Begas of
land which is far greater than that in-
cluded in the field Shelup Bharud: -
that (3) fields "Shelup" and "Bharud" are
two distinct Thikans the Senior Assistant
Judge has erroneously held them to be
one and the same: that (4) ev. 20 is an un-
impeached official document while the lower
court has assumed it to be fraudulent: -
and that (5) exhibit ev. 39 has been mis-
construed by the lower court in as-
much as it distinctly mentioned the fact
of the auction taking place according to
the notice whereas the contrary has by
implication been held: and that (6) the
lower court has pronounced its judgment
before the inquiry was completed.

The Court confirms the Decree
of the Senior Assize Judge with
costs on Special Appellant.

Joseph Arnold.

H. Hewton.

A. Warden.