

In the High Court of Judicature, Bombay.

Monday, the 12th day of September 1864.

SPECIAL APPEAL No. 450 of 1864

Vari Balal Thute of the
Putnagiri Division of the
Konkan District } Appellant
(Original Plaintiff)

versus

Krishnaji Sukharam Sowlay
of the Putnagiri Division
of the Konkan District } Respondent
(Original Defendant)

Rs. 25 - - -

The claim in the Original Suit was to recover a piece of ground occupied by Defend^t. and to compel him to remove a boundary erected thereon.

In Appeal No. 217 of 1861 the Sen^r Assist^t Judge of the District of ~~the Konkan~~ ^{Putnagiri} at the detached Sta. ^{Putnagiri} ~~Putnagiri~~ ^{amended} the Decree of the ~~magis^t~~ ^{magis^t of Chiplun} who had decreed for the Plaintiff.

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the Senior assistant judge is contrary to law in that

(a) The Senior assistant judge has given

given to the Respondent rights to which he is not entitled.

b An encroachment being in itself an injury, the position that the Respondent has not encroached so as to cause injury cannot be upheld.

c The Senior assistant judge has held that the Respondent is entitled to an easement over the appellants' property, because its exercise was convenient to him

d The Senior assistant judge ought not to have considered the appellants' tenement to be servient to that of the Respondent merely because the latter had always had a house on the land.

And that (2) there has been a substantial error in law in the procedure of the case and which has produced error in the decision of the case on its merits in that the Senior assistant judge did not lay down the following issues and give a finding thereon; viz: - 1st Whether the Respondent has enjoyed within the period of limitation allowed in such cases the easements which he seeks to claim over the appellants' property; and 2nd whether

MEMORANDUM OF COSTS incurred in Special Appeal No. 450

of 1864. against the decision of the *Senior Judge* of the District of *the Koutan* and disposed of on the 12th Sep^r 1864 by *confirming the same with Costs*

BY THE APPELLANT—

In the District.

In the <i>Mooneeff's Court</i>	15	26	✓
In the <i>Senior Judge's Court</i>	1	4	"
			16 66 ✓

In this Court.

Stamp for Memorandum of Special Appeal	2	"	✓
Stamps for copies of Decree and Judgment	3	8	"
Stamp for Vukeelutnama	2	"	✓
Batta for Process and Postage	1	1	"
Sectioner's Fee	1	7	3
Vukeel's Fee	"	12	"
			10 12 3 ✓
Rupees....			27 29 ✓

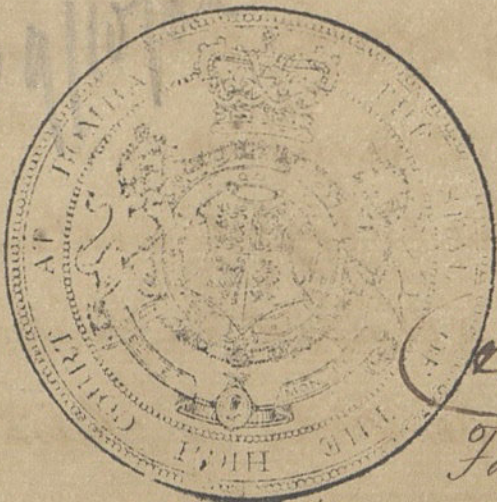
BY THE RESPONDENT.

In the District.

In the <i>Mooneeff's Court (including fee)</i>	5	"	✓
In the <i>Senior Judge's Court</i>	5	13	"
			10 13 " ✓

In this Court.

Stamp for Vukeelutnama	2	"	✓
Vukeel's Fee	"	12	"
			2 12 " ✓
Rupees....			13 9 " ✓



[Signature]
For Sealer

[Signature]
For Registrar

The 12th day of September 1864.

he has or has not altered what easement
he had already enjoyed by improving his
house.

The Court confirms the Decree
of the ^{Judge} Assistant-Judge with Costs
on Special Appellant.

Joseph Arnold
Attor-
Attest: Joseph Arnold

W. W. W. W.