

In the High Court of Judicature, Bombay.

Fri day, the 16th day of September 1864.

SPECIAL APPEAL No. 457. OF 1864.

Sabhaaji Peshav-
das by his Agent
Balaji Narayan
of the Konkan Dis-
trict (Original Plaintiff)

Appellant

versus

Premji Vitul deceased, his sons
and heirs Kurumai Chanji
and Jagjiwan, minors by
their mother and guardian
Premabai & Gangaji & Valji and
Mohanji Vitul Shastri of the
Konkan District. (Original Defendants)

Respondents

Rs. 605-0-0

The claim in the Original Suit was to obtain possession of a fourth
share of a family house.

upon
In Appeals No. 522/537 of 1863 the Assistant Judge
of the District of the Konkan at Tannah reversed
the Decree of the Munsif of Calthan who had decreed for the Plaintiff
without costs.

A Special Appeal was preferred in the High Court on the grounds that (1) the
decision of the sitting Judge is
contrary

contrary to law, in that, it is ~~w =~~
against the admission of the Special
Respondents, and that (2) the share
of Mohanji in the house could be
sold separately whereas the Lower
Court has held an entire division
of the entire property essential.

The Court considers that, as all the members
of the undivided family ~~have been~~ ^{are} Defendants
in this suit, it is unnecessary that the Plain-
tiff should ^{file} another ~~suit~~ ^{action} against them for the
~~purpose~~ purpose indicated by the Acting Judge at
the close of his judgement.

The question of Mohanji's title to dispose of the
house sold to the Plaintiff should be determined in
the present suit, and the Court reverses the
decree of the Judge and remands the case, that
this may be done.

The Court ^{directs that} ~~will receive~~ any necessary evidence to
show the extent of Mohanji's interest in the
property ^{and a new decree will be given.}

Costs to follow the final decision.

H. Newton,

A. S. M. D. S.

MEMORANDUM OF COSTS incurred in Special Appeal No. 457
of 1864 against the decision of the Acting Judge of the
District of the Nounhoo and disposed of on the 16th Sep. 1866
by *remanding the same for retrial*

IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment	3	"	✓
Stamp for Vukeelutnama	2	"	✓
Batta for Process and Postage	5	8	✓
Sectioner's Fee	1	14	"
Vukeel's Fee one-fourth	4	87	
			16 147
			Rupees.... 16 147

BY THE RESPONDENT—

Stamp for Vukeelutnama	2	"	✓
Vukeel's Fee one-fourth	4	87	
			6 87
			Rupees.... 6 87



H. B. S.

For Acting Registrar

H. B. S.
For Sealer

The 16th day of September 1864

Issued certificate on Her Majestys Treasury
Bank of Bombay for the refund of Rs. 32
(32) being the value of Stamp used for special
appeal in this case.

16th September 1884.

[Signature]

For acting Registrar.

[Signature]

Certificate issued to
Registrar

For acting Registrar

For Registrar