

In the High Court of Judicature, Bombay.

Monday, the 19 day of September 1864

SPECIAL APPEAL No. 469 of 1864.

Dungaram Anundaji
Marwadee of the Saw-
-New District. (Original Plaintiff)

Appellant,

versus

Govindappa Pund Patil
of the Saw-New Dis-
-trict. (Original Defendant)

Respondent,

Rs. 26-4--

The claim in the Original Suit was to recover rent of land for two years.

In Appeal No. 16 of 1863 the Acting Sub. Collector of the District of Solapur at Solapur reversed the the Decree of the Magistrate of Saw-New who had awarded the claim of the Plaintiff out the claim.

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

decision of the case upon its merits, in that the sitting Sub Collector has erroneously laid an Appellant - the burden of proving that Respondent had not paid him, instead of calling an Respondent to prove the affirmative *viz.* that he had paid appellant the rent due for the land in question.

The Court consider that the Sub Collector was in error in holding that the appellant Gungaram was called upon to prove ^{negative} factually that Respondent ~~Fardos~~ had not paid the rent due by him, whereas it was an Respondent ^{Gungaram} to prove that he had paid the said rent.

The Court therefore reverse the decree of the Sub Collector & remand the suit for a new decision on the merits, in which due attention is to be given to the above remarks. Costs to follow the final decision.

Admiral Forbes.

[Signature]

MEMORANDUM OF COSTS incurred in Special Appeal No. 469.

of 1864 against the decision of the Acty Sub Collector of the District of *Nolabai* and disposed of on the 19th Sep 1864 by *remanding the same for retrial.*

IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment	2	8	✓		
Stamp for Vukeelutnama <i>two</i>	4	"	✓		
Batta for Process and Postage	1	6	✓		
Sectioner's Fee	"	14	✓		
Vukeel's Fee one-fourth	"	31	✓		
				8	15
				10	✓
				Rupees....	8 15 10 ✓

BY THE RESPONDENT—

Stamp for Vukeelutnama	2	"	✓		
Vukeel's Fee one-fourth	"	31	✓		
				2	31
				Rupees....	2 31



[Signature]

For Acting Registrar

[Signature]
For Sealer

The 19th day of September 1864.

Issued certificate on Her Majesty's Treasury
Bank of Bombay for the refund of Rupees (2.)
being the value of Stamp used for special appeal
in this case.

19th September 1864.

[Signature]

For Acting Registrar.

[Signature]

Certificate returned

Received

100

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