

Poonas Solapure

In the High Court of Judicature, Bombay.

Fri day, the 16th day of September 1864

SPECIAL APPEAL No. 481 OF 1864

Bhaos bin Khundapa of the
Poona District

Appellant

(Original Plaintiff)

versus

Krishnaji Ramchundr of the
Poona District

Respondent

(Original Defendant)

Rs. 799 - 14.

The claim in the Original Suit was to be put in possession of a house bought by Plaintiff, at a Public Auction in execution of a decree.

In Appeal No. 332 of 1863 the Judge of the District of Poona at Poona who had awarded the claim reversed the Decree of the District Judge of Poona who had awarded the 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 suit is not barred under Section 269 of the

Civil

Civil Procedure Act ^{code} ~~III~~ of 1859 in as much as
there was no resistance or obstruction to the
delivery of possession by order of the court and
no procedure was followed under that code,
the application to be put in possession was rejected
on the ground of the property having been sold
Subject to the rights of tenants and others who
were in possession of the same and that (2) —
there has been a substantial error in law in
the investigation of the case which has produced
error in the decision of the case upon its merits
in that since the ^{trial} judge's order of the 17th July
(allowing the appellant to bring an action for
the possession) is not reversed by an order of
the Superior Court this suit is within one year
from the said date and that the limitation
of one year is wrongly applied to this case.

This Court is of opinion that,
as the application of the
Special Appellant to the
Sadr Ameer, and also the
Sadr Ameer's order thereon, were
both made before the Civil
P. Code came into ^{operation} ~~operation~~

The Judge was in error in
relying the fact on the ground
that it was not brought within
one year of the application,
under Sect 269 of the Code.

This Court therefore reverses
the Judges decree and
^{remands} ~~remands~~ the case for
decision on merits - Costs
to abide the final event.

Joseph Arnold
Abimlock Forbes.

MEMORANDUM OF COSTS incurred in Special Appeal No. 481

of 186 4 against the decision of the Judge ----- of the
 District of Poona — and disposed of on the 16th Sep^r 1864
 by remanding the same for retrial.

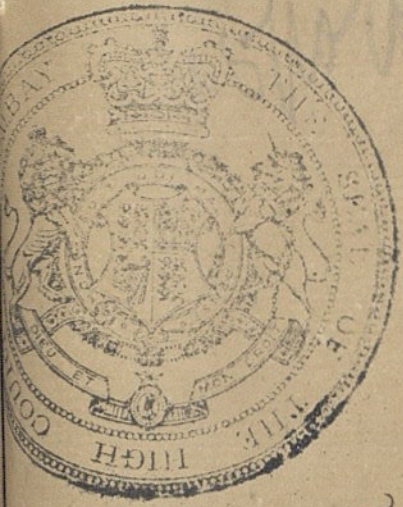
IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment	3	..	..
Stamp for Vukeelutnama	2	..	..
Batta for Process and Postage	1	11	..	
Sectioner's Fee	1	4	6	
Vukeel's Fee one-fourth	6	..	..
				13. 15 6-
				Rupees.... 13 15 6-

BY THE RESPONDENT—

Stamp for Vukeelutnama	2	..	..
Vukeel's Fee one-fourth	6	..	..
				8
				Rupees.... 8



M. J. ...
 For Acting Registrar

M. J. ...
 For Sealer
 The 16th day of September 1864.

Issued certificate on Her Majesty's Treasury
Bank of Bombay for the refund of Rs (32) ^{thirty two}
being the value of stamp used for special
appeal in this case. —

16th September 1864.

Albush
For acting Registrar.

~~rd~~
~~AP~~