

In the High Court of Judicature, Bombay.

Tuesday, the 6th day of June 1865.

SPECIAL APPEAL No. 492 of 1864

Khutros bin Babajee Pise
of the Satara District

Appellant,

(Original Defendant)

versus

Babajee Sudashie of the Sa-
tara District

Respondent,

(Original Plaintiff)

Rs. 23-4-00

The claim in the Original Suit was to recover possession of some Govt land handed over by P.P. to Def. Conditionally, and wh. the latter now refused to give up.

In Appeal No. 370 of 1863 the Judge of the District of Satara at Paturan pronounced the Decree of the Supt. Commissioner who had awarded the claim.

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

thereof upon its merits in that the following was the proper issue to be framed before disposing of the case viz: did the respondent make over the land in dispute to the appellant for cultivation? and did the appellant make any condition with him for its recovery?

¶ Let the land be in the name of any party whatever. yet the Respondent has no right to dispossess the appellant of the same because he (appellant) is the party in possession.

¶ The respondent being the Koolkarnee the papers relating to the management of lands are in his possession. It has appeared in this case that he has changed names the following issue therefore ought to have been properly considered viz: is the Koolkarnee the proprietor of all such land as stands in his name or not? Vide N^o 490 of 1863.

¶ The appellant being the party in possession the onus probandi ought

ought not to have been thrown
upon him

~~The Court finds that the District Judge was in
error in treating the entry of McIntiff Babey's name
as the registered agent as the best evidence
possible, whereas it is only corroborative but not
independent evidence.~~

~~The Court find also that the District~~

The Court conforms the decree
of the District Judge.
Host on Special Appellant.

A. Kinloch Forbes.

A. M. Ward

MEMORANDUM OF COSTS incurred in Special Appeal No. 492

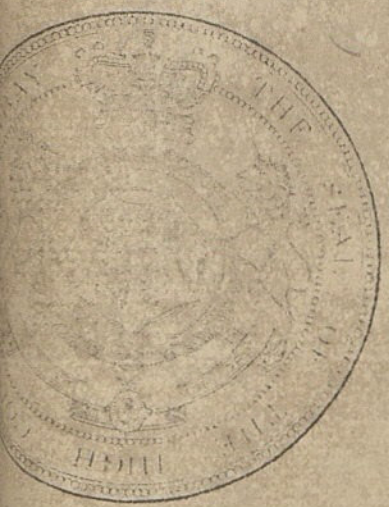
of 1864 against the decision of the Judge _____ of the
 District of *Sataru* and disposed of on the 6th June 1865
 by *confirming the same.*

BY THE APPELLANT—

| <i>In the District.</i> | | | |
|---|---------|-----------|----------|
| In the <i>Moonsiff's court (including V. Fee)</i> | 8. 2 2. | | |
| In the <i>Judge's court</i> | 4. 6 2. | | |
| | | | 12. 8 4. |
| <i>In this Court.</i> | | | |
| Stamp for Memorandum of Special Appeal | 2. " " | | |
| Stamps for copies of Decree and Judgment | 2. 8 " | | |
| Stamp for Vukeelutnama | 2. " " | | |
| Batta for Process and Postage | " 14 " | | |
| Sectioner's Fee | 1. 15 " | | |
| Vukeel's Fee | " 11 2. | | 10 " 2. |
| | | Rupees... | 22. 8 6. |

BY THE RESPONDENT.

| <i>In the District.</i> | | | |
|--------------------------------|----------|-----------|-----------|
| In the <i>Moonsiff's Court</i> | 20. 3 2. | | |
| In the <i>Judge's court</i> | 1. 11 2. | | |
| | | | 21. 14 4. |
| <i>In this Court.</i> | | | |
| Stamp for Vukeelutnama | 2. " " | | |
| Vukeel's Fee | " 11 2. | | 2. 11 2. |
| | | Rupees... | 24. 9 6. |



W. J. [Signature]
 Sataru

R. West
 Registrar

6th day of June 1865.