

Pooné.

In the High Court of Judicature, Bombay.

Monday, the 19th day of September 1864.

SPECIAL APPEAL No. 504 of 1864.

Trimbuk Vishwum attē deceased
his sons and heirs Kashinattē } Appellants,
and Wamun of the Poonā }
District (Original Defendants)

versus

Wamun Mulhar, by his
Mookhtiar Lukshun Ma } Respondent,
- dhurav of the Poonā }
District (Original Plaintiff)

Rs. 750-0-0

The claim in the Original Suit was to recover possession of
the Jahān Koolkarnē Hutē.

In Appeal No. 551 of 1863 the Assistant Judge
of the District of Poonā at Poonā annulled
the Decree of the Mookhtiar of Patus who, on a remand for retrial,
had awarded the Plaintiff one half of the Hutē.

A Special Appeal was preferred in the High Court on the grounds that (1) the
Assistant Judge was wrong in allowing
Plaintiff's claim while holding the deed
of sale and the Dooṃalāputra, upon which
Plaintiff rested his claim, not proved.

That

that (2) the Assistant Judge was wrong in not requiring any proof of the Goomash -
-Tajpur N^o 4, the matter in dispute between
the former case alluded to in his judgment
and the present one being different: that (3)
the Assistant Judge was wrong in holding as
conclusive against Appellants a statement
alleged to have been made by their father
before a Mauludhar in a criminal case
to which Respondent was no party: that (4)
the Assistant Judge was wrong in disregard-
-ing the presumption arising from the fact
of the Plaintiff never having exercised any
right of ownership which he alleges to have
acquired by purchase 46 years ago: that
(5) the Assistant Judge was wrong in
awarding Plaintiff's claim although hold-
-ing that the "Defendants' family has al-
-ways furnished the officiating Cookkur-
-ni &c": that (6) the Assistant Judge was
wrong in not requiring the Plaintiff to rebut
the presumption alluded to in the 4th ground
and awarding the Plaintiff's claim although
it was not rebutted: that (7) the Ass^{ts} Judge
was wrong in holding the alleged sale to the
Plaintiff proved, although holding that the
deed of sale put in by the Plaintiff to prove
the same was not proved: that (8) the Ass^{ts}
Judge was wrong in holding (contrary to Hindu
Law) the alleged sale to be valid in the absence
of

of any delivery of the thing alleged to have been sold: that (9) the Assistant Judge was wrong in awarding the whole Wuttun to the Plaintiff notwithstanding the proved admission by Plaintiff's grand father of Defendant's right to a moiety thereof in Exhibit N^o 13: that (10) the Assistant Judge was wrong in awarding the Plaintiff's claim contrary to the mutual agreement between the parties inferable from the fact of the Plaintiff having for the last 57 years received the whole income of a Wuttun at Boroda of which a moiety belongs to Defendants having received the whole income of the Wuttun in dispute of which a moiety belongs to Plaintiff: that (11) the Assistant Judge was wrong in determining to deprive the Appellants of what they have been in the enjoyment as owners for the last 57 years: that (12) the Ass^t Judge was wrong in admitting in evidence a copy of an alleged deposition of the Appellants' father without any proof of the accuracy of the copy or of the deposition having been really made: that (13) the lower Courts were wrong, after having given the Appellants permission to file certain documents as evidence, not to have waited until they could produce those documents from Government records: & that (14) the lower Courts were wrong in

in construing several portions of
Exhibit No. 4.

To the
20/9/18
4th 28/9/18

The court confirms the decree of the Assistant
Judge with costs in Special Appellant.

Joseph Arnold
Solicitor

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MEMORANDUM OF COSTS incurred in Special Appeal No. 504

of 1864. against the decision of the Assistant Judge of the District of Poona and disposed of on the 19th Sept. 1864 by confirming the same with costs.

BY THE APPELLANT

In the District.			
In the Moonsiff's Court	35.13.9		
In the Asst ^t Judge's Dec ⁿ	" " "		
			35.13.9
In this Court.			
Stamp for Memorandum of Special Appeal	32. " "		
Stamps for copies of Decree and Judgment	4. " "		
Stamp for Vukeelutnama	2. " "		
Batta for Process and Postage	1.15. "		
Sectioner's Fee	1. 5. "		
Vukeel's Fee	22. 8. "		
			165.12. -
		Rupees....	165.12. -

BY THE RESPONDENT.

In the District.			
In the Moonsiff's Court	100. 8. 6.		
In the Asst ^t Judge's Dec ⁿ	60. 2. 6.		
			160.11. "
In this Court.			
Stamp for Vukeelutnama	2. " "		
Vukeel's Fee	22. 8. "		
			24. 8. "
		Rupees....	185. 3. "



H. C. Lumma
For Acting Registrar

H. C. Lumma
For sealer

The 19th day of September 1864