

Poona & Solapur

In the High Court of Judicature, Bombay.

Monday, the 10 day of April 1864.

SPECIAL APPEAL No. 52 — of 1864.

Thundiraj Vinayak, Moro Vitthal,
and Narayun Ramchandra Deo, } Appellants.
Inamdars of the Poona District.
(Original Plaintiffs.) }

versus

Mhasaji bin Shekaji, deceased,
his heirs and sons Ramji and
Ganoji of the Poona District. } Respondents.
(Original Defendants.) }

Rs. 21. 15. 5.

The claim in the Original Suit was to recover certain rent for a certain land in the situated village of Malhar

In Appeal No. 52 of 1863 the acting collector of the District of Poona at Poona reversed the Decree of the Munsif of Malhar who had awarded the claim of the appellants and thrown out the claim with costs.

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the acting collector is contrary to law in that, if the appellate court thought [it necessary] to enquire into the claims [rights] of

of the other sharers besides the appellants, it ought to have made them parties [to the suit] by section 73 of Act VIII of 1859 and carried on the inquiry, instead of rejecting, as has been done the Appellants' claim for their shares notwithstanding that they have a right to the amount claimed: that (2) Gunesh Sakharam alone has no authority to make any stipulation whatever regarding the undivided property without the consent of all (its sharers), and that such a stipulation can be no bar to the Appellants' claim: that (3) any writing whatever regarding an undivided property passed by one of its sharers does not take effect beyond the share of him who passed the writing: and that (4) the objection raised by the (original) defendant (now Respondent) being disproved by a decision of a civil court, it is just that the appellants should receive their claim; and therefore it ought to have been awarded.

The Court confirm the decree of the collector with costs.

Abhishek Forbes.

H. B. Forbes

Bill of costs

By the Appellants
In the District

In the Maunludda's Court ————— 6.12.6
D^o Collector's Court (including fee) ————— 1.10.6 8.7

In this Court

Stamp for Inmos. of Special app^l ————— 2 ..
Stamps for Copies of decree & judgment ————— 2 ..
Stamp for Vukalutina ————— 2 ..
Gutter for Process and Postage ————— 1 8 ..
Sectioner's Fee ————— " 12.6
Vukreel's Fee, ————— " 10.6 8.15
Pepees 17.6

By the Respondents
In the District

In the Maunludda's Court ————— " 12 ..
D^o Collector's Court ————— 4.12.6 5.8.6
In this Court ————— " ..
Pepees 5.8.6



R. West
Sealer

R. West
Registrar

The 18th day of April 1864.