

In the High Court of Judicature, Bombay.

Thurs day, the 29th day of September 1864.

SPECIAL APPEAL No. 527 of 1864.

Karayen Mahadevji of the
Poona District

Appellant

(Original Plaintiff)

versus

Balkrishna Junardhun Joshi
of the Poona District

Respondent

(Original Defendant)

Rs. 15 - - - -

The claim in the Original Suit was to enforce the right of access
to well.

^{cross}
In Appeals No. 84/89 of 1863 the ^{Judge}
of the District of Poona at ~~the~~ ^{the} ~~reversed~~
the Decree of the ~~the~~ ^{the} ~~who~~ ^{who} ~~had~~ ^{had} ~~decided~~ ^{decided} Plaintiff
the right of access for two hours every day.

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 it was not competent for him
to try an appeal from Inamdar's decision i.e.
he

he had no jurisdiction; that (2) a substantial error in law has occurred in the investigation of the case which has produced error in the decision of the case upon its merits in that the following issue was not framed viz:— whether or not there was another well from which the Plaintiff could draw water and how long has he been residing (in the house) and drawing water: that (3) although the appellant has shown that he has enjoyed the privilege of drawing water for upwards of thirty years, the District Judge without attending to it erroneously held that possession of long standing was not shown, and that (4) whoever be the owner of a well— according to the usage of the country none is prevented from drawing water therefrom and the appellant has since the erection of his house been in the habit of drawing water. The onus of proving why the said practice— should be discontinued should have been— thrown on the Respondent.

The Court confirms the decree of the District Judge with cost.

A. K. S. P. S. P.

H. P. S. P.

MEMORANDUM OF COSTS incurred in Special Appeal No. 527.

of 186. 4. against the decision of the Judge ----- of the District of Poona and disposed of on the 29th Sept 1864 by confirming the same with costs

BY THE APPELLANT—

In the District.

In the <i>Inamdar's Court</i>	4.72		
In the <i>Judges Court</i> -	4.74	8.146.	

In this Court.

Stamp for Memorandum of Special Appeal	1 " "		
Stamps for copies of Decree and Judgment	2 8 "		
Stamp for Vukeelutnama	2 " "		
Batta for Process and Postage	1 1 "		
Sectioner's Fee	1 6 "		
Vukeel's Fee	" 7.2	8 6 2	

Rupees.... 17.48.

BY THE RESPONDENT.

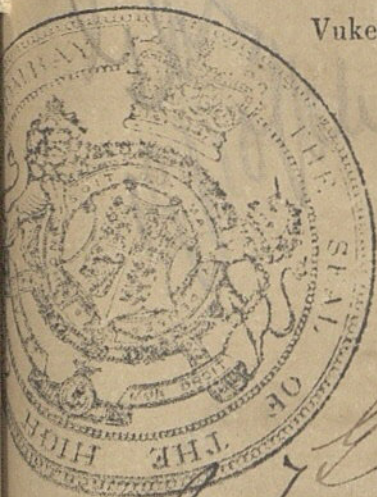
In the District.

In the <i>Inamdar's Court</i>	3 " 2		
In the <i>Judges Court</i> -	4 7.4	7 7 6	

In this Court.

Stamp for Vukeelutnama	2 " "		
Vukeel's Fee	" 7.2	2 7 2	

Rupees.... 9.148



Edmund J. C. Sumner
 For Sealer & Acting Registrar
 The 29th day of September 1864