

In the High Court of Judicature, Bombay.

Thursday, the 22<sup>nd</sup> day of September 1864.

SPECIAL APPEAL No. 528 of 1864.

Bhadorav Purshram Jageerdar  
of the Ahmednugur District } Appellant,  
\_\_\_\_\_  
(Original Defendant)

VERSUS

Duttajirav bin Karayun-  
-rav Deshmookh of the Ah-  
mednugur District } Respondent,  
\_\_\_\_\_  
(Original Plaintiff)

Rs. 60—11—11—

The claim in the Original Suit was to *1100 Rs. by year excess of*  
*Seshwasthi Kullis.*

In Appeal No. 129 of 1862 the Assistant Judge  
of the District of Ahmednugur at Ahmednugur on demand  
the Decree of the ~~who~~  
from the High Court (no. 61/63) amended the Decree  
of the *Provy. of Revenue* 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

has produced error in the decision --  
thereof upon its merits in that the  
following proper issue was not  
framed viz<sup>t</sup>:- Whether the Respond-  
ent has performed that service, which,  
as a claimant to the Deshmookhee,  
he ought legally to perform; the passing  
of a decision before determining the --  
above issue is against <sup>Act</sup> Section XI of 1843;  
that /2/ a claim to recover arrears of  
Deshmookhee haks ought not to have  
been awarded unless an action to de-  
termine whether the Plaintiff / Respondent  
is or is not the real Hakdar, as he  
claims to be, was instituted as law  
required; and that /3/ the onus probandi  
ought to have been thrown upon the  
Appellant because he was the original  
Defendant.

The Court confirms the decree of the Assistant  
Judge with costs.

Atkincock Forbes.

B. W. Mander

MEMORANDUM OF COSTS incurred in Special Appeal No. 528

of 1864 against the decision of the *Asst. Judge* of the District of *Shimoga* and disposed of on the 22<sup>nd</sup> Sep<sup>r</sup> 1864 by *Confirming the same with costs* -

BY THE APPELLANT—

<i>In the District.</i>		
In the <i>Moonjeffs Court</i> - .....	6	10
In the <i>Asst. Judge's Court</i> - .....	16	11 2
<i>In this Court.</i>		22 12
Stamp for Memorandum of Special Appeal .....	4	0
Stamps for copies of Decree and Judgment .....	4	0
Stamp for Vukeelutnama .....	2	0
Batta for Process and Postage .....	1	3
Sectioner's Fee .....	1	6 3
Vukeel's Fee .....	1	12 9
		14 6
	Rupees.....	37 2

BY THE RESPONDENT.

<i>In the District.</i>		
In the <i>Moonjeffs Court</i> - .....	25	12 1
In the <i>Asst. Judge's Court</i> - .....	15	9 8
<i>In this Court.</i>		41 5 9
Stamp for Vukeelutnama .....	2	0
Vukeel's Fee .....	1	12 9
		3 12 9
	Rupees.....	45 2 6



*A. C. S. M. S. S.*  
For Acting Registrar

*A. C. S. M. S. S.*  
For Sealer

The 22<sup>nd</sup> day of September 1864