

In the High Court of Judicature, Bombay.

Tuesday, the 20<sup>th</sup> day of September 1864.

SPECIAL APPEAL No. 534 of 1864.

Mulhari Wulud Ranoji of the  
Poona District

Appellant

(Original Defendant)

versus

Shetkoji Wulud Ranoji of the  
Poona District

Respondent

(Original Plaintiff)

Rs. 14. 10. 6.

The claim in the Original Suit was to recover a fourth share  
of certain lands.

<sup>cross</sup>  
In Appeal No. 1712 of 1863 the  
of the District of Poona at  
the Decree of the ~~Principal~~ <sup>Principal</sup> Sudder Amine who  
had awarded Plaintiff  
claim on condition of his paying Rs. 100 to Defendant,  
and added Plaintiff with the costs.

Prin. Sudder Amine  
Sudder Judge  
Poona

A Special Appeal was preferred in the High Court on the grounds that (1) the  
decision of the Principal Sudder Amine is con-  
trary to law in that

1 The Appellant having by his own  
labor

labor recovered ancestral property, which had been lost he had an exclusive right to it [especially as the claimants at that time abandoned all interest in it]

2 The court below did not consider whether the appellant was entitled to a greater share than that allotted to him, on account of his recovering the property.

□ There has been a substantial error in law in the procedure of the case which has produced error in the decision of the case in that the copy of the Badawa putra (release) obtained from the records of a court of justice the original having been lost, has been improperly rejected.

It appears in this case that the ancestral land, having been for all practical purposes lost, was recovered by the personal exertions of one member of an undivided family, presumably on the joint funds of the family, as far as any expenditure was proved to have been incurred.

On this state of facts the Court finds that the rule of Hindu Law applicable to the case (as laid down in Sir Tho. Strange 2<sup>th</sup> Ed. p 220 in the Mitakshara, Chap. 1. sec. 4. cl. 3. and the Vyavahar Dnyasookh p 86) is that the recoverer of the land is entitled in the first instance to one fourth share of the whole, after which he is entitled to share in rateable proportion with

the other members of the undivided family.  
The dependant in this case is entitled in the  
first instance to  $\frac{1}{4}$ <sup>th</sup> (one fourth) of the whole;  
that leaves  $\frac{3}{4}$ <sup>ths</sup> (three fourths), of which one  
half, or  $\frac{3}{8}$ <sup>ths</sup> ~~(three eighths)~~ (three eighths) only is in  
litigation in this case, and the plaintiff and dependant  
are each entitled to  $\frac{3}{16}$ <sup>ths</sup> (three sixteenths).

The Court therefore modifies the decree of the Principal  
Sudder Ameen to the above extent.

Costs proportionally throughout.

Joseph Arnould  
Attorn.

MEMORANDUM OF COSTS incurred in Special Appeal No. 534  
of 186 4 against the decision of the <sup>Principal S. Amies</sup> ~~Acting Judges~~ of the  
District of Poona and disposed of on the 20<sup>th</sup> Sep: 1864  
by modifying the same—

BY THE APPELLANT—

In the District.			
In the Moonseiff's Court	.....	12	10 5 ✓
In the Principal S. Amies Court	.....	4	6 6 ✓
In this Court.			17. " 11 ✓
Stamp for Memorandum of Special Appeal	.....	2	" " ✓
Stamps for copies of Decree and Judgment	.....	1	8 " ✓
Stamp for Vukeelutnama	.....	2	" " ✓
Batta for Process and Postage	.....	1	" " ✓
Sectioner's Fee	.....	1	12 " ✓
Vukeel's Fee	.....	"	8 6 ✓
			8 12 6. ✓
		Rupees....	25 13 5 ✓

BY THE RESPONDENT.

In the District.			
In the Moonseiff's Court	.....	11	7 9 ✓
In the Principal S. Amies Court	.....	4	5 6 ✓
In this Court.			15 13 3 ✓
Stamp for Vukeelutnama	.....	2	" " ✓
Vukeel's Fee	.....	"	8 6 ✓
			2 8 6 ✓
		Rupees....	18 5 9 ✓



*W. D. S.*  
For Acting Registrar

*Sealer*  
*20<sup>th</sup> September 1864*