

Poona

In the High Court of Judicature, Bombay.

Fri day, the 23<sup>rd</sup> day of September 1864

SPECIAL APPEAL No. 542 of 1864

Gungnath Mulud Mulhiputnath  
of the Poona District

Appellant,

(Original Plaintiff)

versus

Vitnath Mulud Deshmata deceased  
his heirs Sivra W<sup>d</sup> Vitnath Duggia  
W<sup>d</sup> Mahadnath & Sarya W<sup>d</sup> Koo-  
-nath & Guma W<sup>d</sup> Moghnath Mahar  
Thosersay and Chimmaji W<sup>d</sup>  
Nasib & Tambay of the Poona  
District (Original Defendants)

Respondents,

Rs. 144-6-4

The claim in the Original Suit was to recover possession of  
some land (1/16 of the Subbarke watan.)

In Appeal No. 463 of 1863 the  
of the District of Poona at Poona  
the Decree of the *Magistrate of Poona* who *had* reversed the claim.

A Special Appeal was preferred in the High Court on the grounds that (1) sub-  
stantial errors in law in the investigation  
of the case have been made which have  
produced

produced errors in the decision of the case upon its merits in that the officiating judge was in error in holding that the documents Nos 3 and 4 are not proved on the ground he has done since they being upwards of thirty years old can be proved by themselves that (2) the officiating judge was in error in rejecting the order or rather the decree of the Mamledar declaring appellants title to the land in dispute from evidence on the ground he has done since according to the practice which existed during the time of the late Government it was made over to the Appellant that (3) the officiating judge was in error in rejecting the whole of the appellants claim on an appeal preferred by one of the Defendants the other having admitted the justice of the appellants claim by not appealing against the Moonsiffs decree.

The Court holds that the officiating Judge was in error in requiring direct evidence to prove the genuineness of exhibits no 3 & 4, one of which was about 60, and the other about 20 years old, and both of which appear to have come from the proper custody. The officiating Judge also appears to have

MEMORANDUM OF COSTS incurred in Special Appeal No. 542  
of 1864 against the decision of the *Officiating Judge* of the  
District of *Poona* and disposed of on the *23<sup>rd</sup> Sept 1864*  
by *rescinding the same for retrial*

IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment .....	4 8 "	✓
Stamp for Vukeelutnama .....	2 "	
Batta for Process and Postage .....	3 14 "	
Sectioner's Fee .....	1 86	
Vukeel's Fee one-fourth .....	1 14	
		12 15 10
	Rupees ...	12 15 10

BY THE RESPONDENT—

Stamp for Vukeelutnama .....	2 "	
Vukeel's Fee one-fourth .....	1 14	
		3 14.
	Rupees....	3 14



*Handwritten signature*

*For acting Registrar*

*Handwritten signature*

*For Sealer*

*The 23<sup>rd</sup> day of September 1864.*

been in error in rejecting exhibit no. 2, although he has  
not stated the grounds on which he has done so.  
The Court reverses the Decree of the Officiating  
Judge and remands the case in order that a  
new decision may be given on the merits, in doing  
which the effect which ought to be given in evidence  
to exhibits no. 3, no. 4 & no. 21 should be duly weighed.  
A new Decree to be given on the merits.  
Costs to follow the final event.

Joseph Arnold  
H. P. H. Fisher,

July  
28, 9  
Vol. 27

Issued a Certificate on Her Majesty's  
Treasury Bank of Bombay for the  
refund of Rupees (8) eight being  
the value of Stamp used for Spe:  
cial Appeal in this case

Dated this 23<sup>rd</sup> September 1864

*[Signature]*

*[Signature]*  
Acting Registrar