

In the High Court of Judicature, Bombay.

Tues day, the 27th day of September 1864.

SPECIAL APPEAL No. 552 OF 1864.

Devji and Vitoo Bhugwan Goojier
of the Konkun District

Appellants

(Original Defendants)

versus

Bhikoo bin Sewaji of the Kon-
-kun District

Respondent

(Original Plaintiff)

Rs. 7-0-0

The claim in the Original Suit was to recover possession of a field taken from Off. in virtue of a decree against a third party.

In Appeal No. 19 of 1864 the Assistant Judge of the District of the Konkun at Terma confirmed the Decree of the Mooly. Jethan who had awarded the claim.

A Special Appeal was preferred in the High Court on the grounds that the decision of the assistant judge is contrary to law: a In that the Assistant judge has held erroneously that appellants lost their rights as

as mortgagees of the land in question because the original mortgagor threw it up.

b In that Respondent being heirs and representatives of the original mortgagor and as such bound by the terms of the mortgage, the Assistant Judge was in error in relieving them from their liability thereunder.

c In that one part of the Assistant Judge's judgment is contradictory of and repugnant to another part thereof in that in one part thereof the Assistant Judge holds that the mortgagor of the land threw it up and in another part thereof he says it was the mortgagee who did so.

d In that there is no proof of nor any pretence that appellants were aware that the original mortgagor had thrown up the land or made default in the payment of the assessment wherefore they should not have been held to be prejudiced thereby.

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

Joseph Arnold
H. Clewton.

MEMORANDUM OF COSTS incurred in Special Appeal No. 532

of 1864 against the decision of the Assistant Judge of the District of the Hoopoo, and disposed of on the 27th September 1864 by confirming the same with costs.

BY THE APPELLANT.

In the District.

In the Moonsiff's Court.....	7. 3. 4	✓	
In the A. J. Judge's Court.....	3. 1. 4	✓	
In this Court.			10. 4. 8 ✓
Stamp for Memorandum of Special Appeal	1. ..	✓	
Stamps for copies of Decree and Judgment	1. 8. "	✓	
Stamp for Vukeelutnama	2. ..	✓	
Batta for Process and Postage	" 15. "	✓	
Sectioner's Fee	1. 1. "	✓	
Vukeel's Fee	" 3. 4	✓	6. 11. 4 ✓
			Rupees.... 17. .. ✓

BY THE RESPONDENT.

In the District.

In the Moonsiff's Court.....	3. 11. 4	✓	
In the A. J. Judge's Court.....	1. 3. 4	✓	
In this Court.			4. 14. 8 ✓
Stamp for Vukeelutnama	2. ..	✓	
Vukeel's Fee	" 3. 4	✓	2. 3. 4 ✓
			Rupees.... 7. 2. .. ✓



A. J. Judge

for Sealer for Acting Registrar

The 27th day of September 1864.