

In the High Court of Judicature, Bombay.

Wednesday, the 5th day of October 1864

SPECIAL APPEAL No. 554 of 1864.

Dhurma bin Kaloo Gondlee
of the Konkan District

Appellant

(Original Plaintiff)

versus

Dhurma bin Chahoo Mali, deceased
his sons and heirs Bapoo and
Gunia and Bastia of the Kon-
kan District

Respondents

(Original Defendants)

Rs. 5-11-

The claim in the Original Suit was to recover possession of some land on which Pff. had planted trees etc, but which at the time of the survey settlement had been entered in Dept's name. Also to recover for damage done to a fishing-pegge belonging to Pff. by Dept's children, when in the stream.

In Appeal No. 634 of 1864 the Honble Judge of the District of the Konkan at Tarapur pronounced the Decree of the Hoop. of Kalthin who had thrown out the claim for possession of the land.

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the acting judge is contrary to law
a In that the acting judge was in error in holding that the appellant lost his

his right to preference in having the land in question assigned to him, because he did not put forward his claim when the same was brought under a settlement. whereas clause 2 section III Regulation 17 of 1827 provides that any disposal of uncultivated land by the collector "shall not in any way affect claims to preference, occupancy, and like."

b In that the acting judge erroneously held that appellant made default there being no pretence that the collector or Respondents served appellant with notice that the land was being brought under cultivation, or was about to be assigned to Respondents.

c In that under any circumstances the Lower Courts should have awarded the land in question to appellant he having rights superior to those of Respondents.

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

H. C. W. M.

M. W. M.

MEMORANDUM OF COSTS incurred in Special Appeal No. 554

of 186 4. against the decision of the *Acting Judge* of the District of *the Konkan* and disposed of on the 5th October 1864 by *confirming the same with costs*

BY THE APPELLANT—

In the District.

In the <i>Moonjeff's Court</i>	10	32	
In the <i>Judge's Court</i>	3	65	
			13. 97.

In this Court.

Stamp for Memorandum of Special Appeal	1	"	3	
Stamps for copies of Decree and Judgment	1	8	"	
Stamp for Vukeelutnama	2	"	"	
Batta for Process and Postage	1	10	"	
Sectioner's Fee	1	"	7	
Vukeel's Fee	"	25	"	7. 5"
				Rupees.... 20/47.

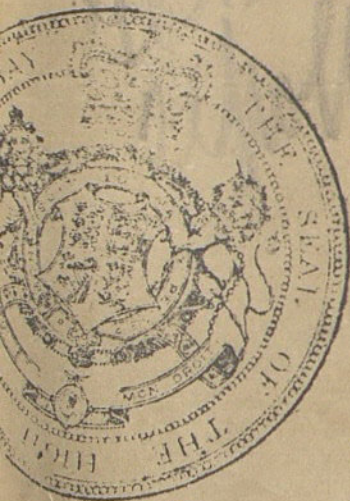
BY THE RESPONDENT

In the District.

In the <i>Moonjeff's Court</i>	1	72	
In the <i>Judge's Court</i>	"	"	"
			1 72

In this Court.

Stamp for Vukeelutnama	"	"	"
Vukeel's Fee	"	"	"
			" " "
			Rupees.... 1 72



Arrest
For Sealer

The 5. day of October 1864

Arrest
For Acting Registrar