

In the High Court of Judicature, Bombay.

For day, the 7<sup>th</sup> day of October 1864.

SPECIAL APPEAL No. 605 OF 1864.

Bhagirthe Kour  
Trimbak Wabra =  
= dev Narsal of the  
Konkan District  
----- (Original Defendant) } Appellant

versus

Lakshmbai Kour  
Balaji Hari Phudke  
and Narayan Ram =  
= dooring Phudke  
of the Konkan Dis =  
= trict ----- (Original Plaintiffs) } Respondents,

Rs. 31-0-0-

The claim in the Original Suit was to recover two fields sold to P. P. by Defen<sup>t</sup>, and wh. she had subsequently wrongfully entered upon.

In Appeal No. 595 of 1863 the Assist. Judge of the District of the Konkan at Tanjur reversed the Decree of the Sup. J. of the Dist. who had thrown out the claim.

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the Assistant Dis =  
= trict

trial Judge is contrary to law, in that he has committed a mistake in law in admitting the Sale deed as evidence, the same being unstamped; and that (2) the Respondent having represented the akhtyarpatra (power of attorney) to have been passed after the sale deed is now estopped from asserting his title under the latter.

The Court <sup>is of opinion</sup> ~~considers~~ that the Assis. Judge decided erroneously in holding that the document No. 3 was valid without a stamp. The Court considers that the value of the property transferred and assigned by the said deed was the price which the Plaintiff agreed to pay for it; that is, as set forth in the said deed, the sum of fifteen (15) rupees plus the arrears of Revenue then due to the Government upon it, for which the vendor was liable in her person and property; and that consequently the said document required a stamp and was invalid without one.

The Court reverses the decree of the Assis. Judge and confirms the decree of the Plaintiff.

All costs in Special Respondent (Def. Plaintiff)

A. P. S. D. S. K. S.

A. J. Warden

MEMORANDUM OF COSTS incurred in Special Appeal No. 605

of 1864 against the decision of the *Asst Judge* of the District of *Uttaranchal* and disposed of on the 7<sup>th</sup> Oct 1864 by reversing the Decree of the *Asst Judge* & Confirming that of the *Moonseff*.

BY THE APPELLANT—

*In the District.*

In the <i>Moonseff's Court</i> .....	1	15			
In the <i>Asst Judge's Court</i> .....	1	15			
<i>In this Court.</i>					3 14
Stamp for Memorandum of Special Appeal .....	2	"			
Stamps for copies of Decree and Judgment .....	2	8			
Stamp for Vukeelutnama .....	2	"			
Batta for Process and Postage .....	1	8			
Sectioner's Fee .....	1	11	3		
Vukeel's Fee .....	4	15			10 10 3
					Rupees.... 14. 8 3

BY THE RESPONDENT.

*In the District.*

In the <i>Moonseff's Court</i> .....	19	15	6		
In the <i>Asst Judge's Court</i> .....	5	7	"		
<i>In this Court.</i>					25 6 6
Stamp for Vukeelutnama .....	2	"			
Vukeel's Fee .....	"	15	"		
					2 15
					Rupees.... 28 5 6



*For Sealer*

The 7<sup>th</sup> day of October 1864

*For Acting Registrar*

For Acting Registrar