

In the High Court of Judicature, Bombay.

~~Friday~~ <sup>Thurs</sup> day, the 6<sup>th</sup> day of October 1864.

SPECIAL APPEAL No. 615 of 1864.

Vital Lumbek And.  
-bedker in the Put-  
-nageri Division of  
the Konkan District  

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(Original Plaintiff)

Appellant

versus

Shiva bin Vitor and Es-  
-sar bin Krishna Shet-  
-tay in the Putna-  
-giri Division of the  
Konkan District  

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(Original Defendants)

Respondent

Rs. 375-0-0

The claim in the Original Suit was to recover possession of two  
Thikans 'Ayer' & 'Bhatpet', wh. had been let  
to Defendant's father and on his death returned pos-  
session of by def. There was also a claim for mesne prof.

In Appeal No. 390 of 1863 the Assistant Judge of  
of the District of the Konkan at the date of the Decree  
the Decree of the Juff. of Chiplun who had awarded the claim.

A Special Appeal was preferred in the High Court on the grounds that (1) there

has been a substantial error in law

in the procedure of the case which has produced error in the decision of the case upon the merits in that,

(A) A document thirty years old, and coming from proper custody, has not been held to be *prima facie* proved.

(B) The entry in the Survey of 1801-2 has been dismissed without consideration on the ground - "that of itself it proves nothing," but its effect with the other evidence in the case should have been considered.

(C) While Exhibit N<sup>o</sup>. 10 stands, receipt of rent is unnecessary, but in observing that no receipt of rent has been shown, the Court has overlooked the Exhibits N<sup>os</sup>. 11 and 13.

(D) The Court has regarded N<sup>os</sup>. 10 and 13 as bearing the same date and therefore suspicious, which is erroneous.

(E) The Senior Assistant Judge threw out the admission against interest made by Anaji on insufficient grounds.

(F) It has not been admitted as alleged by the Senior Assistant Judge that

(1) Shera and his family have been in undisturbed possession as proprietors for upwards of thirty years, and that (2) Plaintiffs family never received any profits.

MEMORANDUM OF COSTS incurred in Special Appeal No. 615

of 1864 against the decision of the *Sr. Asst. Judge* of the District of *the Tanjore* and disposed of on the 6 October 1864 by *confirming the same with costs.*

BY THE APPELLANT—

*In the District.*

In the *Moonsiff's Court* ..... 74 7 9  
 In the *Sr. Asst. Judge's Court* ..... 11 12 ..

*In this Court.*

Stamp for Memorandum of Special Appeal ..... 32 ..  
 Stamps for copies of Decree and Judgment ..... 3 ..  
 Stamp for Vukeelutnama ..... 2 ..  
 Batta for Process and Postage ..... 2 ..  
 Sectioner's Fee ..... 1 56 ..  
 Vukeel's Fee ..... 11 4 ..

86.39

57 9 6

Rupees.... 137.13 3

BY THE RESPONDENT

*In the District.*

In the *Moonsiff's Court (including fee)* ..... 23 ..  
 In the *Sr. Asst. Judge's Court* ..... 45 9 3

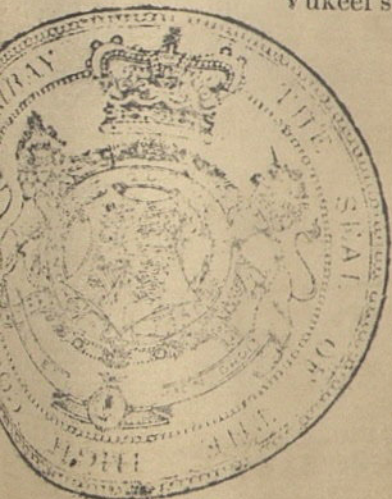
*In this Court.*

Stamp for Vukeelutnama ..... 4 ..  
 Vukeel's Fee ..... 11 4 ..

68 9 3

15 4 ..

Rupees.... 83.13 3



*[Signature]*  
 For Sealer

*[Signature]*

For Ag. Registrar

The 6<sup>th</sup> day of October 1864

The Court confirms the Decree of the Paris  
Assist.<sup>t</sup> Judge with costs.

A. Leutra

A. Mason