

In the High Court of Judicature, Bombay.

Thursday, the 17 day of November, 1864

SPECIAL APPEAL No. 653 OF 1864.

Bapoo bin Sugaji Soorve of the  
Poona District

Appellant

(Original Plaintiff)

versus

Naraji bin Ranaji & Gubhinaji &  
Nuri Krishna & Raghaji Sons of  
Khundaji Patel Soorve of the  
Poona District.

Respondents

(Original Defendants)

Rs. 63- --

The claim in the Original Suit was to obtain possession  
of 9 kharab acres alleged to be the halfshare  
of joint property belonging to the Plaintiffs  
& Defendants

In Appeal No. 425 of 1864 the  
of the District of Poona at Poona reversed  
the Decree of the Court of Poona 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, which has  
produced error in the decision of the case up-  
on its merits in that since the plaintiff was  
allowed

allowed to be registered the appellate court was in error in rejecting the claim on the ground that the situation of the trees was not described by the setting forth of the boundaries; that (2) since it has been held that the trees in the Thikan Banzayee are the joint property of the parties and that they were in the habit of dividing the produce the Principal Judge Amin was in error in throwing out the claim for a division of the said trees that (3) the burden of proof is wrongly ~~strongly~~ thrown on the appellant; and that (4) a material question is left undecided viz: whether the decision No. 72 shows that the trees are situated in the Thikan Banzayee or in Samast.

The court reverse the Decree of the P. Chamber of Mousiff and remand the case for a full enquiry of Decision on the merits, fresh evidence being taken if necessary on the following issues.

1<sup>st</sup> Whether there is a Thikan "Banzayee" containing mango trees?

2<sup>nd</sup> If so whether those trees or any of them are the joint property of the Plaintiffs and Defendants?

MEMORANDUM OF COSTS incurred in Special Appeal No. 653.

of 1864 against the decision of the *Principal Sudder* of the District of *Poona* — and disposed of on the 17<sup>th</sup> Nov. 1864 by reversing the same for retrial.

IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment .....	3	..	✓
Stamp for Vukeelutnama .....	2	..	✓
Batta for Process and Postage .....	21	..	✓
Sectioner's Fee .....	1	19	✓
Vukeel's Fee one-fourth .....	"	76	✓
			8 10 3. ✓
	Rupees ...		8 10 3. ✓

BY THE RESPONDENT—

Stamp for Vukeelutnama <i>stamped</i> .....	4	..	✓
Vukeel's Fee one-fourth .....	"	76	✓
			4 76. ✓
	Rupees ...		4 76. ✓



*H. J. ...*

*H. J. ...* District Registrar

For Sealer  
 This 17<sup>th</sup> day of November 1864.

Issued a certificate on Her Majesty's  
Treasury Bank of Bombay for the refund  
of Rupees (Rs) four being the value of Stamp  
used for Special Appeal in this case

Dated the 14<sup>th</sup> day of November 180

*[Signature]*  
Special Registrar

*[Signature]*

Certificate granted to Rupee

*[Signature]*

*[Signature]*  
14<sup>th</sup> Nov 180

<sup>rd</sup> 3<sup>rd</sup> also, in what proportions?  
If these issues be found in the  
affirmative, a partition of the  
rees found to be joint property  
to be made by the Court, according  
to the shares of the parties.  
Costs to follow the final decision.

H. Weston,  
Att. by the Court,