

Poona

In the High Court of Judicature, Bombay.

Thursday, the 9th day of February 1865.

SPECIAL APPEAL No.

657

OF 1864

Anundras Govind Deokooli, deceased,
his heir his nephew Raghobnath Baji
Deokooli of the Poona District (original
Defendant)

Appellant

Baposa, deceased, his heir his widow Wara-
nushibai of the Poona District.
(Original Plaintiff)

Respondent

Rs. 9-7-10

Special Appeal No. 807 of 1864.
Baposa, deceased, his heir his widow Wara-
nushibai of the Poona District (original
Plaintiff)

Appellant

Respondent

Anundras Govind Deokooli, deceased,
his heir his nephew Raghobnath Baji
Deokooli of the Poona District.
(Original Defendant)

Respondent

Rs. 9-7-10

The claim in the Original Suit was to cause the removal of the abstraction
occasioned by Defendant Anundras Plaintiff's obtaining possession
of certain land in violation of a Decree passed against one Raghobnath
Babaji, awarding to Plaintiff the possession of the land on payment
of a certain sum of money.

In Appeal No. 410

of 1863

the Principal Defendant

of the District of Poona

at Poona

the Decree of the Munsif at ~~Shed~~ who in a re-investigation of the case had de-
creed that Murranshee had should take possession of the land after paying Raghobnath
Baji the heir & nephew of the deceased Anundras Rs. 65 on account of the land which
was mortgaged to Def. & Rs. 13.15 on account of interest, assessment & costs of Decree
that Murranshee should pay to Raghobnath Rs. 295.7.9 & take possession
of the mortgaged land & that Raghobnath the heir of the deceased Anundras should
not accept any abstraction.

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

of the Principal Suder Amra is contrary to Law in
that he acted without jurisdiction in hearing an
appeal from the Munsiff's decree in a case of this
kind; that (2) the Principal Suder Amra has
gone

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gone against the terms of the bond N^o 6 in holding there is no provision therein for payment of interest by Respondent; and that (3) the Principal Sudder Ameen went against the terms of the said bond, in otherwise varying the Moosuff's award to appellants' prejudice.

That a substantial error in Law has occurred in the investigation of the case, which has produced error in the decision of the case upon its merits in that (1) so much of Rughooath's mortgage lien as was once held to be justly established in the first suit having been awarded to him by the Court ^{it was improper for the Appellate Court to do} to have erroneously awarded more in the suit filed the second time, that (2) although after (an account) between the creditor and his debtor has been one (a quiet) a mistake may be found to have truly occurred therein, each party should bear the loss; therefore Rughooath should have been made to sustain the loss on account of N^o 6, & that (3) although it does not appear from the deed filed in the former suit that the amount for (an account of) N^o 6 had remained (due), to be paid, an erroneous decision has been passed awarding the amount of that hollow (dead) note.

The Court find that this suit is really one for the redemption of a mortgage for more than one hundred Rupees, and that the appeal was not one of those which could legally have been referred to the P. Sudder Ameen for trial under the provisions of Section 3 of Regulation 18 of 1803.

The Court therefore reverse the decree of the
P.S.A. on the ground of that officer's want of
jurisdiction to make it, and remand the
appeal to the S^t. Judge that he may dispose
of it on the merits, and award costs.

Attest: John Forbes.

R. Newton

Bill of Costs

In this Court.

Costs incurred in S. A. No. 657 of 1864
 By the Appellant
 Stamps for copies of Decree & Judgment 1. 8
 Stamp for Vakhatutuama 2. " "
 Batta for process & postage 1. " "
 Sectioners Fee 1. 2. 6
 Vakel's Fee one fourth " 1. 1
5. 11. 7

By the Respondent.
 Stamps for Vakhatutuama 2. " "
 Vakel's Fee one fourth " 1. 1
3. 1. 1
 Rupees. 5. 11. 7
2. 1. 1
 Rupees. 2. 1. 1

Costs incurred in S. A. No. 807 of 1864
 By the Appellant.
 Stamps for copies of Decree & Judgment 2. 8 "
 Stamp for Vakhatutuama 2. " "
 Batta for Process & Postage 1. 10. "
 Sectioners Fee 1. 2. 9.
 Vakel's Fee one fourth " 1. 1
7. 5/10

By the Respondent
 Stamp for Vakhatutuama 0 " "
 Vakel's Fee one fourth " 00
000
 Rupees. 0. 00
0. 00



W. J. J. J.

Sealer

West
 Registrar

The 9th day of February 1865.

RRS

Issued certificates on Her Majesty's
Treasury the Bank of Bombay for the
refund of Rupees one, one hundred and
seventy and eight, being
Special Appeals Nos 857 & 807 being
the value of stamps used for special
appeals in this case.

Dated the 9th February 1865

(B)

R West
Registrar.

Certificate given to [unclear]