

In the High Court of Judicature, Bombay.

mm — day, the 29th day of August 1864.

SPECIAL APPEAL No. 66 OF 1864.

Ramchandr and Vishwas
and Mahadaji Sankararam
of the Ahmednagar District

Appellants,

(Original Plaintiffs)

versus

Jivna and Rama Wulud
Mandhoji of whom Rama deceased
his son and heir Bapas and
his security Rajaba Wulud
Suddaraji of the Ahmednagar
District (Original Defendants)

Respondents.

Rs. 137-15-11

The claim in the Original Suit was to *revoke Rs. 137. 15. Dec. as per*
deed of interest on a bond on that the lands mentioned
therein may be made over to the Plaintiffs.

In Appeal No. 177 of 1863 the *Judges*
of the District of *Ahmednagar* at *Ahmednagar* reversed
the Decree of the *Sydney* *Shaw* who *had thrown out the claim &*
decreed in favor of plaintiffs in that Rama & Seena sons of
the deft. pay to plaintiffs the full amount of claim with costs by in default
of Rama & Seena that the security Rajaba Wulud Suddaraji pay
to plaintiffs as decreed.

A Special Appeal was preferred in the High Court on the grounds that (1) a
substantial error in law in the investigation
of the case has been made which has
produced error in the decision of
the

the case on its merits in that it was incompetent for the District Judge to decide upon the rights of a person who is not a party to the suit, that (2) the onus of proof is wrongly placed upon the appellants, that (3) the District Judge was in error in not making all the persons interested in the claim to be the parties to the suit; that (4) it is incompetent for the Respondents to raise the objection that they were not competent to dispose of the land in question; and that (5) the District Judge was in error in not ordering the Respondents to make over the land to which they were entitled.

The Court says the Decree of the D. J. & Decal. that the defendants Kappoo Md Nama & Serna Md Koochoja shall deliver to Plaintiffs the lands mortgaged if shall pay the cost of the present action in all courts. The Court further orders that the said defendants shall be entitled to redeem the said lands on the payment of the debt, principal & interest set forth in the plaint, that is of the sum of Rs. 137.15.00 with further interest ^{at the rate of 9 per cent per annum} on the said sum from the date of filing the Plaint to the date of payment & all the costs of the suit.

within twelve calendar months from the
date of this decree, & that if the said sum
with interest & costs be not paid ^(the mortgage) within
the prescribed term the debt shall be
for ever foreclosed. The Court also
decree, that the debt Rajah's
~~debt~~ ^{the security} is liable for the
total amount (including interest) declared
to be due by the other defendants
with the exception of costs, & that, if
the lands be not delivered, he must
pay to the plaintiffs the whole & any
portion of the debt as aforesaid
that may not have been discharged
by or recovered from the other debtors.

Atty General,
Chancery
Acting Registrar
In Honour of the Court
Warranted

MEMORANDUM OF COSTS incurred in Special Appeal No. 66.

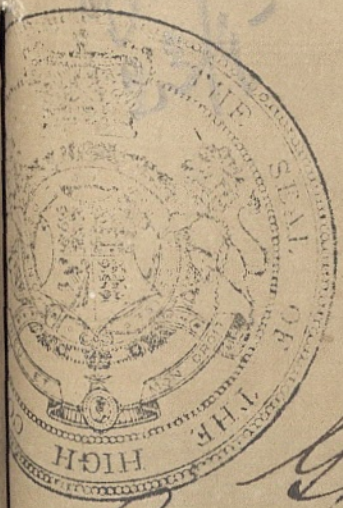
of 186 4 against the decision of the Judge - - - - of the District of Ahmednugur and disposed of on the 29th Augt 1864 by varying the same.

BY THE APPELLANT

In the District.		
In the Jahagirdars Court	25	00
In the Judges Court	15	14 2
In this Court.		40 14 2
Stamp for Memorandum of Special Appeal	8	00
Stamps for copies of Decree and Judgment	4	00
Stamp for Vukeelutnama <i>two</i>	4	00
Batta for Process and Postage	2	14 00
Sectioner's Fee	1	7 3
Vukeel's Fee	4	2 2
		24 7 5
Rupees		65 5 7

BY THE RESPONDENTS

In the District.		
In the Jahagirdars Court	15	7 4
In the Judges Court (including V. Fee)	4	10 2
In this Court.		20 1 6
Stamp for Vukeelutnama	2	00
Vukeel's Fee	4	2 2
		6 2 2
Rupees		26 3 8



Ch. Somnath
Ch. Somnath
 For Acting Registrar
 For Sealer
 The 29th day of August 1864.