

Poona & Solapur

In the High Court of Judicature, Bombay.

Monday, the 3 day of April 1865

SPECIAL APPEAL No. 680 of 1864.

Krishnaji bin Lukshmun Thare
deceased by his nephew and heir Phandi
bin Subhanji also deceased by his
son and heir Phakoo a minor by his
guardian and mother Radikha
of the Poona District (Original Plaintiff)

Appellant,

versus

Chinaji Kooke deceased by his
sons and heirs Popoo and Vitoo
of the Poona District

Respondents.

(Original Defendants)

Rs. 24-11-

The claim in the Original Suit was to cause the defendants to restore
certain patta lands alleged to have been mortgaged to them
by Krishnaji the payment of the sum for which the
lands were mortgaged having been tendered of re-
-fused

In Appeal No. 315 of 1865 the Principal Judge Ansen
of the District of Poona at Poona reversed
the Decree of the Plaintiff at Madgaon who had awarded the claim

A Special Appeal was preferred in the High Court on the grounds that (1) the decision
of the Principal Judge Ansen is contrary to law
in that the claim was thrown out by the Appellate
Court without finding the Respondents occupant

of the land in dispute to have extended over more than sixty years which decision of the Appellate Court is contrary to clause 15 of section 1 of Act XIV of 1859 that (2) though the Appellant is the nearest and proper claimant to (the property of) Kishnaji the Appellate Court objected to the Appellants' claim on the ground of a former suit - but as the Appellant was not a party to it that objection does not lie as against the Appellants' right therefore the decision of the Appellate Court is contrary to section II of Act VIII of 1859 and that (3) a substantial error in law in the investigation of the case has produced an error in the decision of the case on its merits in that the Respondents call the land in dispute not their Miras but only Gutkoolce land and that though that assertion has not been proved, it has been found to be the Miras of the Special Appellant and that therefore though it was a point for investigation - whether the land in dispute was or was not in mortgage with the Respondent that point was not laid down which is an error.

The Court reversed the Decree of the Trial Judge and remanded the suit that the following issues may be decided.

I Whether the land was mortgaged by Kishnaji's son

Supremacy of Chinese Law
II Whether Plaintiff shall be
to the heir of the said Plaintiff
- right via Supremacy.

The Court below to
pronounce a new Decree after
deciding the above matters
apportioning costs.

A. Kinloch Forbes.

R. Couch

H. P. S. Tucker

*Journal a certificate on the 1st day of March 1865
 the Bank of Bombay for the purpose of deposit
 (1) the only being the order of stamp*

MEMORANDUM OF COSTS incurred in Special Appeal No. 680

of 186 4 against the decision of the P. S. Amin of the District of Poona and disposed of on the 3rd April 1865 by remanding the same for retrial.

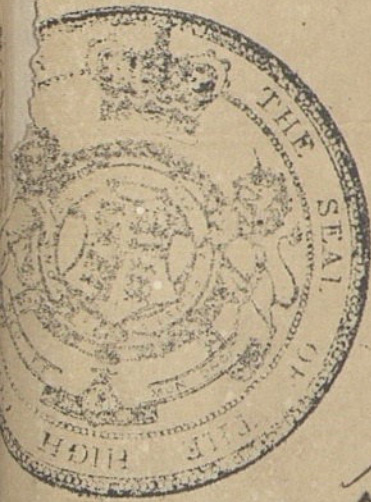
IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment	1	8	0	✓
Stamp for Vukeelutnama	2	0	0	✓
<i>Do - for an application to enter the name of the Respondents here.</i>	2	0	0	✓
Batta for Process and Postage	1	9	0	✓
Sectioner's Fee	1	3	9	✓
Vukeel's Fee one-fourth	2	11	✓
			8.7.8	✓
Rupees ...			8.7.8	✓

BY THE RESPONDENT—

Stamp for Vukeelutnama	4	0	0	✓
Vukeel's Fee one-fourth	2	11	✓
			4.2.11	✓
Rupees....			4.2.11	✓



*West
 For Sealer*

*West
 Registrar*

The 3rd day of March 1865.

Issued a certificate on Her Majesty's Treasury
the Bank of Bombay for the refund of Rupees
(2) two only being the value of stamp used
for Special Appeal in this case.

Dated 3rd April 1865

West.
Registrar.

21 B. R. S.

Certificate given to

8 1 3

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