

In the High Court of Judicature, Bombay.

Monday, the 22 day of March 1865

SPECIAL APPEAL No. 687 OF 1864.

Simberk Government  
Moharri of the Poona  
District - (Original Plaintiff)

Appellant,

versus

Apaji and Ranaji his  
Bapooji Sadheo Sa-  
hib of the Poona  
District - (Original Defendants)

Respondent,

Rs. 919-8-00

The claim in the Original Suit was to

recover the amount

of principal and interest due upon a mortgage  
bond by the sale of the mortgaged property

In Appeal No. 688 of 1863 the  
of the District of Poona  
the Decree of the Magistrate who

had decreed for  
the Plaintiff

A Special Appeal was preferred in the High Court on the grounds that there  
has been a substantial error in  
law in the investigation of the  
case which has produced error

in the decision of the case upon  
its merits in that the Appellate  
Court thought admitting that  
the witnesses had deposed to the  
genuineness of the mortgage -  
bond, carelessly threw out the  
claim, without any ground for  
doubt (or suspicion) that (2) the  
defendants (Respondents) admit  
that the mortgaged land stands  
in the name of the Appellant.  
Had the bond not been passed,  
the mortgaged land would not  
have continued in the name  
of the Appellant after the ex-  
ecution of the bond, and Gov-  
ernment would not have  
received the amount of rent  
from the Appellant that (3)  
if the claim could not be aw-  
arded upon bond No. 3, the  
claim should have been awarded  
upon the previous bond No. 50, in  
as much as that bond had been  
admitted by the defendants, and  
a suit having been filed thereon,  
a decree No. 47 had been passed,  
that (4) the suit having been re-  
jected on the ground of the in-  
correctness of the plaint, a decree  
admitted by the defendants,  
could not be held to be invalid.  
The claim therefore should not  
have been thrown out; and  
that (5) the defendants having  
admitted the document and  
the transaction, the lower Court  
was

was wrong in not throwing the  
burden of proof of the payment  
of rent on the defendant. -

The Court confirm  
the decree of the Court below  
with costs

R Couch

M Mason

C

Wm. H. Mason  
vs  
R. Couch

MEMORANDUM OF COSTS incurred in Special Appeal No. 687

of 1864 against the decision of the Judge of the District of Poona and disposed of on the 22<sup>nd</sup> March 1865 by confirming the same with costs.

BY THE APPELLANT—

In the District.			
In the	Mousieff's Court.....	109.11.4	
In the	Judge's Court.....	28.9.4	
			138.4.8
In this Court.			
	Stamp for Memorandum of Special Appeal....	50 .. "	
	Stamps for copies of Decree and Judgment....	3 .. "	
	Stamp for Vukeelutnama .....	2 .. "	
	Batta for Process and Postage .....	2. 9 ..	
	Sectioner's Fee .....	.. 14 ..	
	Vukeel's Fee .....	27. 9. 4	
			86. .. 4
		Rupees....	224. 5. "

BY THE RESPONDENT—

In the District.			
In the	Mousieff's Court....	31. 9. 8	
In the	Judge's Court.....	81. 9. 7	
			113. 2. 10
In this Court.			
	Stamp for Vukeelutnama.....	4 .. "	
	Vukeel's Fee.....	27. 9. 4	
			31. 9. 4
		Rupees....	144. 12. 2



*[Signature]*  
 Sealer

*[Signature]*  
 Registrar

The 22<sup>nd</sup> day of March 1865.