

In the High Court of Judicature, Bombay.

Wednesday, the 23 day of November 1864

SPECIAL APPEAL No. 702 — or 1864.

Madhuvrao Ramchunder —
Deshpande Koolkurni of the Kolaba
sub-Collectorate —

Appellant

(Original Defendant)

versus

Jeshvuntrao Narayun de-
ceased his son and heir Gopalrao
Jeshvunt Baghule of the Kolaba
sub-Collectorate —

Respondent

(Original Plaintiff —)

Rs. 95 — — —

The claim in the Original Suit was to recover said land

In Appeal No. 4 of 1864 the Sub-collector
of the District of Sub-collectorate of Kolaba at Kolaba confirmed
the Decree of the Munsif of Rajpore who had decreed that Madhuvrao
& Lata pay jointly in all 5-16 be of what is its value. Rs. 95

A Special Appeal was preferred in the High Court on the grounds that the
decision of the acting sub-collector is contrary to law, in that though under
document Exhibit No. 26 the Respondent is to acquire the ownership of the land

dispute after Shukra 1795 (et. C. 1873-74) the
claim has been allowed under Exhibit N^o 2
upon an assumption of his ownership of
the land in dispute which is contrary
to Clause 3 of Section 10 of Regulation
XVIII of 1827. (2) ~~that~~ as the point has been
raised that the Respondent has not yet
acquired the ownership (of the land in
dispute) his claim ought not to have been
allowed till he had first instituted a
suit in a Civil Court, in order to have
the ownership adjudged to him - in contra-
-vention of (the terms of) Exhibit N^o 24. (3)
~~that~~ a substantial error in law has oc-
-curred in the investigation of the case which
was produced. error in the decision of the
case upon its merits in that the document,
Exhibit N^o 24 has been misconstrued -
for, as under it; the period up to Shukra
1795 (1873-74) being allowed to the appellant
to liquidate the Pbat (Pice) and the Principal,
the competence to institute, the claim is not
acquired before the expiration of that period.
The decision is contrary to (the terms of)
that document. (4) though it is the Respon-
-dent who alleges that some of the Pbat
paid has been paid on account of
other debt. the appellate Court threw
burden of proof of this upon the
appellant

appellant - which is contrary to the
rulings in cases No 2964 and 396.

The Court upholds the
Decree of the Sub. Court with
costs on Spl. Appeal

Amosick Forbes

W. W. Warden

MEMORANDUM OF COSTS incurred in Special Appeal No. 702

of 1864 against the decision of the actg Sub. Collector of the District of *Frankon* - and disposed of on the 23 Nov. 1864 by *confirming the same with cost*

BY THE APPELLANT—

In the District.

In the <i>Mamtedari</i> Court	8	13	7	✓
In the <i>Sub Collector's</i> Court	13	17	✓	
			21	15

In this Court.

Stamp for Memorandum of Special Appeal	8	"	✓	
Stamps for copies of Decree and Judgment	3	"	✓	
Stamp for Vukeelutnama	2	"	✓	
Batta for Process and Postage	1	"	✓	
Sectioner's Fee	"	"	✓	
Vukeel's Fee	2	13	7	✓
			16	14
			38	13

Rupees.... 38 13 9 ✓

BY THE RESPONDENT.

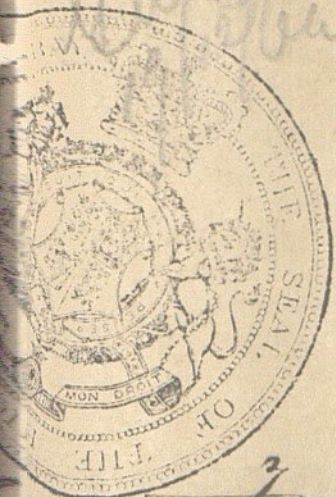
In the District.

In the <i>Mamtedari</i> Court	19	5	7	✓
In the <i>Sub Collector's</i> Court	3	13	7	✓
			23	3

In this Court.

Stamp for Vukeelutnama	2	"	✓	
Vukeel's Fee	2	13	7	✓
			4	13
			28	"

Rupees.... 28 " 9 ✓



[Signature]
For Sealer

[Signature]
District Registrar

23rd day of November 1864