

In the High Court of Judicature, Bombay.

Now day, the 20 day of *November* 1864.

SPECIAL APPEAL No. 703 — of 1864

Buhiroo bin Tookaram of the Appellant
Satara District (Original Plaintiff)

versus

Sudu bin Mahadu of the Respondent
Satara District (Original Defendant)

Rs. 31 — 6 — 4

The claim in the Original Suit was to *obtain possession of half*
a share of a field

In Appeal No. 433 of 1863 the *Acting Judge*
of the District of *Satara* at *Satara* confirmed
the Decree of the *Hoofal Pundit* who *had thrown out the claim.*

A Special Appeal was preferred in the High Court on the ground that *(1) the*
decision of the Acting District Judge is
contrary to law in that.

(a) The Lower Court threw out the claim although the cause of action had occurred within the period of limitation.

(b) Although the opposite party did not deny the ground to be Plaintiffs ^{District} ~~miras~~ as the Judge gave judgment on a point not raised by the pleadings.

II 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 on its merits in that.

Though the applicant is proved to be a relation of the opposite party, his claim was thrown out without inquiry as to whether he is not by reason of his relationship entitled to the share he claimed.

The Court on from the decree of the D of in the 10th of 1881

Wm. C. Jones

H. P. Jones

