

In the High Court of Judicature, Bombay.

Now day, the 5 day of Decr 1864

SPECIAL APPEAL No. 733 of 1864

Gunesh Bal Krishna Tembhe
of the Konkan District
Appellant

(Original Defendant)

versus

Gopal Bal Krishna Tembhe
of the Konkan District
Respondent

(Original Plaintiff)

Rs. 1773-7-8

The claim in the Original Suit was to obtain a half share
of certain family property

In Appeal No. 23 of 1864 the Asst Judge
of the District of ~~North Kan~~ Kanur amended
the Decree of the ~~Judg at Kanur~~ Judge who had awarded Rs 1773.7.8
to the ~~petitioner~~ ~~respondent~~ conditionally on his paying Rs 109.5.3 on account
of half the amount of debts due by decreeing that further
liabilities on either side might ~~be~~ be
established if necessary in a future suit

A Special Appeal was preferred in the High Court on the grounds that (1) the
decision of the Assistant Judge is contrary
to law in that the claim being barred by limitation
has been awarded, that (2) the period occupied
in the inquiry incidental to the petition to
sue

due as pauper has been taken into account; in-
stead of the suit being held to commence when
the petition was filed that (3) Documents
(4a and 4b) though admitted by the opposite
party have been held void on account of
his ~~marriage~~ ^{non-age}, when by his own shewing
he was of full age at the time they were
executed; and the same have been con-
firmed by his subsequent acts, that (4)
the onus of shewing that the documents
were obtained under circumstances which
rendered them inoperative against the
opposite party lay upon him. It has
been wrongly shifted upon the appellant
that (5) the opposite party is entitled to
any thing at all, should obtain one-fourth
and not one-half of the property claimed,
as another co-sharer was entitled to one-
half the property and relinquished his share
~~no~~, that (6) the property awarded included
the self acquired as well as the ances-
tral property, and that (7) the ~~opposite~~
appellant was not allowed an opportunity of pro-
ducing his evidence to prove the do-
cuments he produced in Review of
Judgment.

The Court confirms the
decree of the Assistant Judge with costs.
R. Couch
S. Lee tr.

MEMORANDUM OF COSTS incurred in Special Appeal No. 733

of 1864 against the decision of the Assistant Judge of the District of the Konkan and disposed of on the 5th December 1864 by confirming the same with costs.

BY THE APPELLANT—

IN THE DISTRICT.

In the <i>Munsiff's Court</i>	178	133			
In the <i>Asst. Judge's Court</i>	197	3			
				375	136

IN THIS COURT.

Stamp for Memorandum of Special Appeal	100	-	-		
Stamps for copies of Decree and Judgment	4	8			
Stamp for Vukalutnama	2	"			
Stamp of an application to enter the name of the Appellant's heir					
Batta for Process and Postage	2	14			
Sectioner's Fee	5	2			
Vukeel's Fee	53	33			
				167	113

BY THE RESPONDENT—

Rupees.... 543 8 9

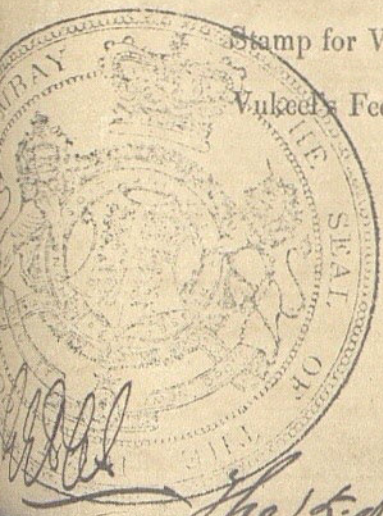
IN THE DISTRICT.

In the <i>Munsiff's Court</i>	306	123			
In the <i>Asst. Judge's Ct.</i>	97	83			
				404	46

IN THIS COURT.

Stamp for Vukalutnama	2	"			
Vukeel's Fee	53	33			
				55	33

Rupees.... 459 7 9



P. West
 Dealer

P. West
 Registrar