

In the High Court of Judicature, Bombay.

Thursday, the 23 day of March 1864.

SPECIAL APPEAL No. 742 of 1864.

Pandoo Mulud Jugoo Titkatey
of the Solapoor Collectorate } Appellant
(Original Plaintiff)

versus

Sudoo Mulud stursoo -
Titkatey of the Solapoor Col- } Respondent
lectorate
(Original Defendant)

Rs. 6 — " — "

The claim in the Original Suit was to obtain a Decree directing Sudoo from preventing him (Plaintiff Pandoo) from using the water of a well situated in a field held by both Plaintiff & Defl.

In Appeal No. 1 of 1864 the Collector of the District of Solapoor at Solapoor affirmed the Decree of the Magistrate of Barsee who had thrown out the claim.

A Special Appeal was preferred in the High Court on the grounds that (1st) that the Collector erred in holding that because the survey field in question is

is entered in Respondent's name, the portion thereof which appellant obtained by right of inheritance is an unrecognized portion. ^{not} (2) ~~It~~ that the Collector erred in holding that because the payments of the water rate in question were made by appellant in the Respondent's name, the payments were virtually made by Respondent. (3) ~~So~~ that ⁽³⁾ the Collector has erred in finding for the Respondent altho' he failed to show that at the partition of the land the well in question was reserved to himself alone, there being only one well in the whole field. (4) ~~So~~ that ⁽⁴⁾ the Collector has drawn an erroneous presumption from the fact that the land was entered in Respondent's name viz: that therefore he could dictate his own terms to appellant, the fact being that Respondent's title to his own share was in no way superior to appellant's title to his own share from the accidental circumstance that the land was entered in Respondent's name. (5) ~~So~~ that ⁽⁵⁾ the Collector erroneously held that the repair of the well by Respondent entitled him

him to the use of it - (115) And that ⁽⁶⁾ the Collector
has overlooked and incorrectly treated
certain presumptions of fact which were
sufficient in themselves to shift the onus
of proof from appellant to Respondent
the onus having been improperly placed
on appellant.

The Court confirms the order
of the Collector with costs on App. App.

Atkinsack Forbes,

H.P.M. Forbes,

MEMORANDUM OF COSTS incurred in Special Appeal No. 742

of 1864 against the decision of the Collector of the District of Solapoor and disposed of on the 23rd March 1865 by confirming the same.

By THE APPELLANT—

IN THE DISTRICT.

In the Mamedar's court (including v. Feet)	5	8	1		
In the Collector's court	2	4	10		
				7	12 11

IN THIS COURT.

Stamp for Memorandum of Special Appeal	1	"	"		
Stamps for copies of Decree and Judgment	3	8	"		
Stamps for ^{two} Vukalutnamas	4	"	"		
Stamp of an application to enter the name of the Appellant's heir	"	"	"		
Batta for Process and Postage	1	"	"		
Sectioner's Fee	1	15	3		
Vukeel's Fee	"	2	10	11	10 1
				Rupees....	19 7 "

By THE RESPONDENT—

IN THE DISTRICT.

In the Mamedar's court	7	"	1		
In the Judge's court	"	"	"		
				7	" 1

IN THIS COURT.

Stamp for Vukalutnama	2	"	"		
Vukeel's Fee	"	2	10	2	2 10
				Rupees....	9 2 11



W. S. Sculer
 March 1865

R. West
 Registrar

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True Translation
W. J. J. J.
Deputy Registrar