

Purna Solapur

In the High Court of Judicature, Bombay.

Two day, the 26 day of April 1864

SPECIAL APPEAL No. 79 of 1864.

Ahilaji and Sukharam wuled Dhurmaji Patil of whom Ahilaji deceased his son and heir Dhurmaji wuled Ahilaji Patil Chhangphore of the Pona District (Original Defendants) } Appellants

versus

Bhiraji wuled Subaji Patil Chhangphore of the Pona District (Original Plaintiff) } Respondent

Rs. 2-4-11

The claim in the Original Suit was to obtain possession of a half share of certain uninclosed land wrongfully withheld by the defendant from their legal co-share the Plaintiff

In Appeal No. 858 of 1862 the Acting Judge of the District of Pona confirmed the Decree of the Magistrate who had awarded the share as claimed

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the District Judge is contrary to law in that the land said to belong to one Purnan in lieu of his share in which Appellants are said to hold

hold the land sued for having according to Res-
-pondents Plaint been mortgaged to the whole family
by Pursoo, it was incompetent to Respondent alone
without the consent of all the parties interested to
allow Pursoo to redeem the same that (2) the District
Judge has erroneously decreed that appellants shall
give up the land in dispute, against which, by Res-
pondents own showing, appellants has a lien as mortgagee
without just deciding the amount of such lien and
awarding the same to appellants that (3) the arrangement
by which appellants hold the land in dispute being
entered with Rowjee alone appellants ^{are} not liable
at the suit of Respondent who had no hand in
effecting such arrangement. that (4) the District
Judge awarded ~~in~~ the claim without first requiring
all the parties interested in the subject matter at
issue to be made parties to the suit: that (5) there
has been a substantial error in law in the inves-
tigation of the case ~~has been made~~ which has
produced error in the decision of the case upon its
merits in that the District Judge has failed to
decide a material issue between the parties viz.
whether irrespective of the alleged exchange and
mortgage Respondent was entitled to the land sued
for or not.

The Court
confirms the decree of the Court
below with costs

R. Coach
App. for the

Bill of costs

By the Appellants

In the District

In the Moonieff's Court (including v. fees) — 6. 11. 1. ✓
 Do Judge's Court (including v. fee) — 2. 12. 10 ✓
 9. 7. 11

In this Court

Stamp for Inms. of Special app^l — 1 " ✓
 Do for Copies of decree & judgment — 2 8 " ✓
 Do for ukhatnawa — 2 " ✓
 Batta for Proceps and Postage — 1. 4 " ✓
 Sectioner's Fee — 1 - 1 " ✓
 Vukerli's fee — " 1 - 1 " ✓
 14. 1. 1

By the Respondent

In the District

In the Moonieff's Court — 5. 12. 1. ✓
 Do Judge's Court — 1. 2. 1 ✓
 6. 14. 2

In this Court

— " " — " " —
 Rupees 6. 14. 2

Rupees 17. 6. "



Wm. D. M. D.
 For Registrar

Wm. D. M. D.
 For Sealer

The 26th day of April 1864