

In the High Court of Judicature, Bombay.

Monday, the 23 day of January 1862.

SPECIAL APPEAL No. 815 of 1862

Autaji & Huri Sudashiv demand his son & heir Vinayak Huri & Ramchandra & Bapooji Sudashiv Abhyankar of the Kankar District

Appellants.

(Original Plaintiffs)

Balia bin Lakshman deceased, his son & heir Chidia bin Balia a minor by his guardian & uncle Janda bin Lakshman of the Kankar District.

Respondents.

(Original Defendants)

Rs. 14-13-8.

The claim in the Original Suit was to recover possession of certain land alleged to have been forfeited by the Defendants through their neglect of the stipulated rent.

In Appeal No. 268 of 1864 the Hon. Justice of the District of the Kankar at Jamna pronounced the Decree of the Hon. Justice who had decreed that the defts should pay a written agreement to pay the rent and in default award of delivery of the land to the plaintiffs.

A Special Appeal was preferred in the High Court on the grounds that there has been

substantial error in law and in the investigation of the case which has produced an error in the decision of the case upon its merits.

(a) In that the Court below has erred in holding the Statute of Limitation applicable in the case so as to bar the recovery of the property in as much as the Respondents possession was not an adverse one but merely possession by sufferance, he having a right to hold the land as long as he fulfilled the conditions of his engagement and no longer;

(b) The respondents having failed to give the stipulated quantity of grain at the end of the year, the Appellants had every right to oust him out of his tenancy, the Court below therefore did err in holding that the respondent cannot be ousted as per Special appeal No. 500 of 1863.

(c) Since the respondent has admitted the proprietary right of the Appellant, the onus as to his alleged right to retain possession of the land was on him the respondent.

The Court reversed the decree of the Principal Judge and declared the Plaintiff to be entitled to the land as proprietor, and the Defendants to be entitled to possession.

of the same so long as they pay
the rent due to the plaintiffs. Costs
throughout to be paid by the Resp^{ts}
in Special Appeal

R Couch

J. Hewitt

A. M. Warden

MEMORANDUM OF COSTS incurred in Special Appeal No. 815.

of 1864. against the decision of the P. S. Ameen of the District of the ^{at Tanna} ~~Konkuru~~ and disposed of on the 23rd January 1865. by reversing the same and declaring the Plaintiffs to be entitled to the land as proprietors and the Defs to be entitled to possession of the same so long as they pay the rent due to the Plaintiffs. Costs throughout to be paid by the Respondents in Special Appeal.

BY THE APPELLANT

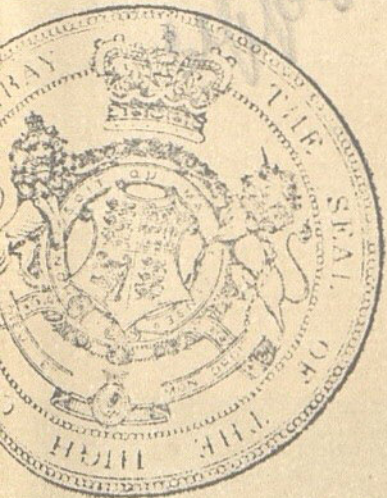
In the District.

In the Munsiff's Court	6	11	1	✓
In the P. S. Ameen's Court	1	7	1	✓
In this Court.				
Stamp for Memorandum of Special Appeal	1	0	0	✓
Stamps for copies of Decree and Judgment	2	0	0	✓
Stamp for Vukeelutnama	2	0	0	✓
Batta for Process and Postage	1	4	0	✓
Sectioner's Fee	1	4	0	✓
Vukeel's Fee	0	7	1	✓
				7 15 1 ✓
Rupees.....				16 13 ✓

BY THE RESPONDENT.

In the District.

In the Munsiff's Court	3	1	1	✓
In the P. S. Ameen's D ^o	4	0	1	✓
In this Court.				
Stamp for Vukeelutnama	2	0	0	✓
Vukeel's Fee	0	7	1	✓
				7 1 2 ✓
Rupees.....				9 8 3 ✓



[Signature]
1st Assistant Registrar

[Signature]
For Sealer

The 23rd day of January 1865.