

In the High Court of Judicature, Bombay.

Wednesday, the 11 day of November 1864.

SPECIAL APPEAL No. 83 of 1864.

Anundrav bin Ramajirav Phosle
of the Rutnagiri Division of the Appellant,
Konkan District

(Original Plaintiff)

versus

Sudshet bin Dhakshet Redij of
the Rutnagiri Division of the Respondent,
Konkan District

(Original Defendant)

Rs. 30-0-0

The claim in the Original Suit was to free Sudshet to produce a mortgage deed & allow redemption of 4 Thillan mortgages to him by Anundrav's father.

In Appeal No. 238 of 1864 the Sub J. Smith Judge of the District of the Konkan at the detached station of Rutnagiri awarded the Decree of the Hooff. at Shiplon who had decreed should be redeemed on the payment tendered by the sum of Rs 325- & decreed that the Thillans be redeemed on the payment tendered of the sum of Rs 1035-

A Special Appeal was preferred in the High Court on the grounds that the decision of the Acting Senior Assistant Judge is contrary to Law: Acting Senior

1st In that the Assistant Judge has erroneously awarded -

awarded interest beyond the term provided for in the mortgage Bond on which Respondent rested his claim.

2nd In that the ^{Acting Senior} Assistant Judge has erroneously awarded more interest at one time than the amount of principal, such award being contrary to Hindoo Law and the ruling of the High Court in Special Appeal No. 467 of 1861.

The Court reverses the decree of the acting Senior Assistant Judge and remands the case that he may take an account of the principal sums acknowledged in the deed No. 14 and also of interest for six years at the rate agreed on, on such portions of that principal as bore interest and further of interest at the same rate on the whole of the principal acknowledged in the deed specified, from the filing of the suit to the date of taking the account; if that an account may be taken of rents & profits from the filing of the suit to the date of taking the account; if the amount deducted from the total which may be found due on account of principal and interest

as above.

The Court below to pass a decree for redemption on payment of the balance within six months from the date of the decree with interest at nine percent per annum.

The Plaintiff unless he pay within the time specified be foreclosed.

Costs of appeal no 230 in the lower court & of the appeal to be borne by the original Defendant bid set.

Hecotm.

H.P. 104 Tucker,

MEMORANDUM OF COSTS incurred in Special Appeal No. 83

of 1864. against the decision of the Acting Senior Appellate Judge of the District of the Konkan at ^{Puthagiri} and disposed of on the 16 Novr 1864. by remanding the same for retrial.

IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment	3	.	.		
Stamp for Vukeelutnama	2	.	.		
Batta for Process and Postage	1	3	.		
Sectioner's Fee	1	7	3		
Vukeel's Fee one-fourth	3	7		
				7	13 10
Rupees....				7	13 10

BY THE RESPONDENT—

Stamp for Vukeelutnama	2	.	.		
Vukeel's Fee one-fourth	3	7		
				2	3 7
Rupees....				2	3 7



W. D. East

W. D. East District Registrar

For Sealer

W. D. East The 16th day of November 1864.

