

In the High Court of Judicature, Bombay.

Tuesday, the 7th day of February 1865.

SPECIAL APPEAL No. 847 — OF 1864.

Bankut Burgavand Rao-
del Shandei of Chalisgaum
of the Shandesh District

Appellant

(Original Plaintiff)

versus

Vitoba Shendappa Gao-
re of the Kankern Dis-
trict

Respondent

(Original Defendant)

Rs. 1293-12-00

The claim in the Original Suit was to recover damages for an alleged breach of contract.

In Appeal No. 45 of 1863 the Judge of the District of the Kankern at Solapur amended the Decree of the Juff. Shandei who had thrown out the claim, by awarding Plaintiff Rs 1103-5

A Special Appeal was preferred in the High Court on the grounds that there has been a substantial error in law in the investigation of the case which has produced

produced even in the decision of the case on its merits in that

(a) The undertaking of the opposite Party being not to sell the Cotton without instructions, the Court below has virtually justified him in the disposal he made, without instructions of the Court, such disposal being opposed alike to law, and Equity. -

(b) The Court below has held that the opposite Party sold the Cotton in execution of his threat, there being no evidence of any kind to warrant the said finding, and moreover, it is opposed to the opposite Party's own admissions recorded in the case. -

(c) The delivery order for (51) fifty one Bales of Cotton at a certain rate was no warrant to the opposite Party to dispose of the whole of the goods without instructions, and neither was it the value which the Appellants set on the whole of the goods, and was not as such

such the measure of damages to be awarded for the whole of the goods in the case. -

(d) The Court below has affirmed without evidence that the Appellant was "very well satisfied" with the disposal by the opposite Party, the facts being as shown by Exhibits N^o. 15 and 18. (in App. prob) that the Appellant immediately objected to the alleged sale. -

The Court amends the decree of the District Judge by awarding to App, in addition to the amount awarded by the Judge, the sum of Rs 715-0-0, being the difference between the price for which the cotton was sold and the highest price for which it might have been sold at any time between the date of the sale and the date of the institution of the suit.

Interest allowed upon the amount of the decree at 9 percent per annum from the date of the institution of the suit to that of payment.

Costs in proportion to the amount awarded.

R. Coak
& Co. Secy.

A. M. Warden

MEMORANDUM OF COSTS incurred in Special Appeal No. 847
of 1864 against the decision of the Judge of the
District of the *Kanun* and disposed of on the 7th February 1865
by *annulling the same.*

BY THE APPELLANT—

IN THE DISTRICT.

In the <i>Mooniffs Court</i>	120	15	11	✓		
In the <i>Judges Court</i>	97	7	11	✓		
			218	7	10	✓

IN THIS COURT.

Stamp for Memorandum of Special Appeal	50	00	00	✓		
Stamps for copies of Decree and Judgment (two)	3	8	00	✓		
Stamp for Vukalutnama	4	00	00	✓		
Stamp of an application to enter the name of the Appellant's heir				✓		
Batta for Process and Postage	3	00	00	✓		
Sectioner's Fee	1	11	3	✓		
Vukeel's Fee	38	12	00	✓		
			100	15	3	✓

BY THE RESPONDENT—

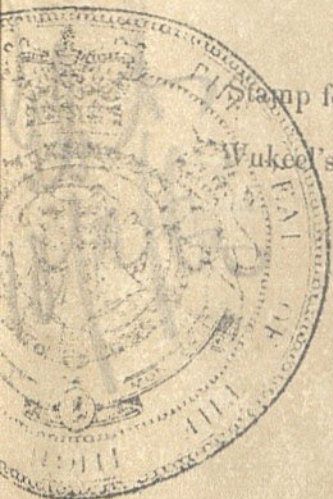
Rupees.... 319 7 11 ✓

IN THE DISTRICT.

In the <i>Mooniffs Court</i>	68	11	2	✓			
In the <i>Judges Court</i>	44	1	11	112	13	1	✓

IN THIS COURT.

Stamp for Vukalutnama	2	00	00	✓		
Vukeel's Fee	38	12	00	✓		
			40	12	00	✓
Rupees....	153	9	1	✓		



W. J. ...

The 7th day of *Febr* February 1865

P. West
Registrar

मुंघर्षलेचीरुत्यायाचीदरीदण्डेसंत.

मं० ७२२३ १ म० प्रयोग १०२२ २

स्वेदीयशुष्कीरंग ८४७ ७१९८२

~~यस्येद्युगोत्तमं दृष्टिदोषं दृष्टव्यं न। ३५~~

~~सुखं वाचं वाचनीयं दृष्टव्यं -~~

शुष्कीरुं.

३६

(सुखं वाचं)

प्रतीपक्षी.

~~एतद्विदित्वा तु कश्चिन्नोपनिबन्धनं~~

शुष्कीरुं.

(सुखं वाचं)

सं० १२२३-१२ --

~~सुखं वाचं वाचनीयं दृष्टव्यं -~~

~~यस्येद्युगोत्तमं~~

~~सुखं वाचं वाचनीयं दृष्टव्यं -~~

~~एतद्विदित्वा तु कश्चिन्नोपनिबन्धनं~~

~~सुखं वाचं वाचनीयं दृष्टव्यं -~~

~~सं० ११६३६२~~

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Ms. C. 13

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A true translation
Khanderao Chimanrao

Trans.
17/2/60

