

In the High Court of Judicature, Bombay.

*Wednesday* day, the *5* day of *July* 1865.

SPECIAL APPEAL No. *876* OF 1864.

*Daji Srimbhat deceased,*  
*by his son and heir Mah-*  
*shwar of the Ahmednagar*  
*District* } Appellant,

(Original Plaintiff)

*Feshew Dikshit bin*  
*Vital Dikshit of the*  
*Ahmednagar Dis-*  
*trict* } Respondent,

(Original Defendant)

Rs. *125* - - -

The claim in the Original Suit was to

*establish title to*  
*the house mortgaged to him by the Dft*  
*for possession of 1/3rd*

In Appeal No. *130* of 1864 the  
of the District of *Ahmednagar*  
the Decree of the *Judge* at *Nasik* who

*had thrown out*  
*the claim*  
*confirmed*

A Special Appeal was preferred in the High Court on the grounds that *the decision*

*of the District Judge is contrary to*  
*law*

Law in that

(a) The Widow Kasibai had the right of mortgaging the property as against all the world except the heirs of her husband. -

(b) The competency, or incompetency of the Widow Kasibai to mortgage the house to Appellant, was out of the question, as there was no heir to contest the same. -

(c) The Appellant having sued on the ground of forcible dispossession by the opposite party, the material question respecting the prior right of possession was left undecided; -

(d) The Decree No. 10 has been erroneously admitted in evidence against the Appellant as he was neither party nor privy to it. -

(e) There is no evidence of satisfaction of the Decree No. 10, except that furnished by the endorsement upon it, viz. as to the costs of the suit, nor is there

there any evidence to connect the de-  
-eree with the portion of the house  
in the present suit. -

The Court reverse  
the decree of the courts below and  
award to the plaintiff the share  
of the house and for costs thrown  
out on the respondent in the Appeal

Atkincock Forbes.

J. Weston.

MEMORANDUM OF COSTS incurred in Special Appeal No. 876

of 1864 against the decision of the Judge of the District of Ahmednagar and disposed of on the 5<sup>th</sup> July 1865 by reversing the same

BY THE APPELLANT—

IN THE DISTRICT.

In the Munsiff's Court (including Vakils Fees)	32	2		
In the Judge's Court (do)	14	"	"	46 2

IN THIS COURT.

Stamp for Memorandum of Special Appeal	8	"	"	
Stamps for copies of Decree and Judgment	3	"	"	
Stamp for <sup>two</sup> Vukalutnama's	4	"	"	
Stamp of an application to enter the name of the Appellant's heir	"	"	"	
Batta for Process and Postage	1	8	"	
Sectioner's Fee	2	9	1	
Vukeel's Fee	3	12	"	22 13 1
Rupees				68 15 1

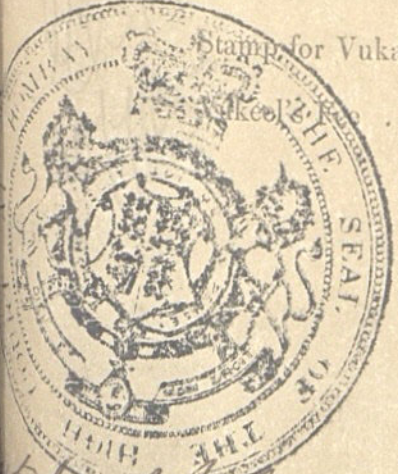
BY THE RESPONDENT—

IN THE DISTRICT.

In the Munsiff's Court	13	2	"	
In the Judge's Court	4	12	"	17 14

IN THIS COURT.

Stamp for Vukalutnama	2	"	"	
Vukeel's Fee	3	12	"	5 12
Rupees				23 10



5<sup>th</sup> day of July 1865

*W. D. Seal*  
Sealer

*R. West*  
Registrar