

In the High Court of Judicature, Bombay.

*16th* day, the *1* day of *February* 186*5*.

SPECIAL APPEAL No. *882* or 186*4*.

*Balumbhut Gunpole deceased*  
*his son & heir Murbhut of the* Appellant  
*Rutuagiri Division of the Northern*  
*District* (Original Plaintiff)

versus

*Pilumbhut ben Murbhut*  
*Thete of the Rutuagiri* Respondent  
*Division of the Northern District*  
(Original Defendant)

Rs. *500*---

The claim in the Original Suit was to *cause the removal of a wall*  
*& part of an office, & to prevent obstruction being offered*  
*to the building of a mill.*

In Appeal No. *23* of 18*64* the *senior assist judge*  
of the District of *the Northern at the detached station of Rutuagiri*, amended  
the Decree of the *honnabhi abhiploov* who had awarded the claim & directed that  
*the Def<sup>t</sup> construct closed drains or refuse pipes, so that his refuse water*  
*may descend into the common passage without splashing on Plaintiff's*  
*wall.*

A Special Appeal was preferred in the High Court on the grounds that *substantial*  
*errors in law in the investigation of the case*  
*have been made which have produced*  
*errors in the decision of the case upon*  
*its*

its merits

- 1 In that the Senior Assistant Judge was in error in ruling that by the lapse of time the Appellant has lost the right to specific performance of the Contract No. 11 since the cause of action according to the agreement only arose when the Respondent recently erected his building.
- 2 In that the Court's order remanding the case for retrial is disregarded.

The Court can find the Decree of the S. A. J. with costs & disp. Appo.

Atkinloch Forbes.

H. P. G. Tucker.

MEMORANDUM OF COSTS incurred in Special Appeal No. 882

of 1864 against the decision of the *Senior Spts Judge* of the District of *the Nizam* and disposed of on the *1<sup>st</sup> February 1865* by *Confirming the same with costs*

BY THE APPELLANT—

IN THE DISTRICT.

In the <i>Munsiff's Court</i> .....	74	3	4	5
In the <i>Senior Spts Judge's Court</i> .....	68	2	3	5
				142 53 5

IN THIS COURT.

Stamp for Memorandum of Special Appeal .....	32	"	"	5
Stamps for copies of Decree and Judgment .....	3	"	"	5
Stamp for Vukalutnama .....	2	"	"	5
Stamp of an application to enter the name of the Appellant's heir .....	2	"	"	5
Batta for Process and Postage .....	1	5	"	5
Sectioner's Fee .....	2	2	6	5
Vukeel's Fee .....	15	"	"	5
				55 7 6
				Rupees.... 197 12 9

BY THE RESPONDENT—

IN THE DISTRICT.

In the <i>Munsiff's Court (including V. Fee)</i> .....	49	6	"	5
In the <i>Senior Spts Judge's Court</i> .....	58	"	"	5
				107 6 5

IN THIS COURT.

Stamp for Vukalutnama .....	2	"	"	5
Vukeel's Fee .....	15	"	"	5
				17 11 5
				Rupees.... 124 6 5



*W. J. ...*  
*R. West*  
 Sealer  
 The 1<sup>st</sup> day of February 1865  
 Registrar