

In the High Court of Judicature, Bombay.

Monday, the 30th day of January 1865.

SPECIAL APPEAL No. 885 — of 1864.

Nago bin Gann of the Kon-
kum District.

Appellant

(Original Plaintiff)

versus

Bango bin Ragho Patil of
the Konkum District

Respondent

(Original Defendant.)

Rs. 194 - 4 - "

The claim in the Original Suit was to recover possession of two fields at the expiration of the period for which they had been let on lease; and to recover 3 years' mesne profits.

In Appeal No. 266 of 1864 the Judge of the District of the Konkum at Turbha annulled the Decree of the Muff. at Bhowadi who had awarded the claim with Rs 210 damages against the two Defendants, by awarding that portion of it which awarded Plff. possession of the fields "Dibherka", and costs up to Bang.

A Special Appeal was preferred in the High Court on the grounds that (1) the decision of the District Judge is contrary to Law, in that:
(1) The Respondent having admitted the possession of the land by the Plaintiff the

onus

onus of making out a title should not have been thrown on him.

(2) There is no legal evidence in the case to show that the Plaintiff was a tenant at will.

(3) The Lower court is wrong in assuming the Plaintiff to be such tenant.

(4) No legal transfer having been proved it was wrong to hold that the Plff's right to reentry was barred.

(5) The Lower court committed an error in law in assuming without any legal evidence that the Special appellant had thrown up the land.

The Court confirms the decree of the District Judge.

Costs on Special Appellant.

R Couch

Hewitt

A M Ward

MEMORANDUM OF COSTS incurred in Special Appeal No. 885
of 1864 against the decision of the Judge of the
District of the *Norham* and disposed of on the 30th January 1865
by Confirming the Same with Costs

BY THE APPELLANT—

IN THE DISTRICT.

| | | | | |
|--------------------------------|----|----|----|----|
| In the <i>Moonsiff's Court</i> | 33 | 11 | 5 | ✓ |
| In the <i>Judge's Court</i> | 6 | 13 | 3 | ✓ |
| | | | 40 | 88 |

IN THIS COURT.

| | | | | |
|--|----|----|----|----|
| Stamp for Memorandum of Special Appeal | 16 | " | " | ✓ |
| Stamps for copies of Decree and Judgment | 3 | " | " | ✓ |
| Stamp for Vukalutnama | 2 | " | " | ✓ |
| Stamp of an application to enter the name of the Appellant's heir | | " | " | |
| Batta for Process and Postage | 1 | 6 | " | ✓ |
| Sectioner's Fee | 3 | " | 6 | ✓ |
| Vukeel's Fee | 5 | 13 | 3 | ✓ |
| | | | 31 | 39 |

Rupees.... 71.12.5 ✓

BY THE RESPONDENT—

IN THE DISTRICT.

| | | | | |
|---|----|---|----|-----|
| In the <i>Moonsiff's Court (including V. & T. & C.)</i> | 15 | 5 | 5 | ✓ |
| In the <i>Judge's Court</i> | 25 | 5 | 3 | ✓ |
| | | | 40 | 108 |

IN THIS COURT.

| | | | | |
|-----------------------|---|----|---|-----|
| Stamp for Vukalutnama | 2 | " | " | ✓ |
| Vukeel's Fee | 5 | 13 | 3 | ✓ |
| | | | 7 | 133 |

Rupees.... 48.7.11 ✓



W. J. S.
For Sealer
The 30th day of January 1865. Registrar
R. West