

In the High Court of Judicature, Bombay.

Thursday, the 2 day of February 1865.

SPECIAL APPEAL No. 887 of 1864

Babaji bin Dadaji a minor by
his guardian his uncle Shanta bin
Yumana of the Sattara District
(Original Plaintiff) } Appellant

versus

Kurugowda bin Ramgow-
da Sahib of the Sattara District
(Original Defendant) } Respondent

Rs. 13-8-11

The claim in the Original Suit was to recover possession of some
Govt. land related to Kurugowda

In Appeal No. 216 of 1864 the Judge
of the District of Sattara at Sattara reversed
the Decree of the Munsiff at Caspaw who had awarded the claim.

A Special Appeal was preferred in the High Court on the grounds that the decision of
the District Judge is contrary to law in that (a)
(a) The Court below held an entry in the Govern-
ment registers in the name of the Plaintiff to be essential
to

to his recovery in an action of ejectment.

(b) The Appellant having descended from Gama (the grand-father) he was not held to have inherited all the rights which by the Hindu Law of inheritance came to him, and was held entitled to sue by his next friend.

The Court find that the D. J. was in error in decreeing for defendant on the ground he has alleged. If, as alleged, the whole field which forms the subject of the action was the property of Shanta & his nephew Bahajee, & Shanta was in possession of a moiety while the Deft., Munsavada, was occupant of the other moiety, & refused to recognize the proprietary title of Shanta and his nephew to the whole field, it was clearly competent to Shanta to sue as guardian of his nephew, during the latter's minority, to get the Deft. from that moiety; & the only questions that were left for the D. J. to determine were.

1st Was Plaintiff established that the field in question is the property of the heirs of Gama, & that a half share of the said field has been leased or made over to the Deft. to cultivate?
2nd Was defendant established that he either possessed by inheritance or has acquired by prescription a proprietary title in the half share of the field in dispute which is admittedly in his occupation?

The Court reverse the Decree of the D. J. & remand the suit for retrial on the issues above laid down, costs to be apportioned at the final decision.

The Court remarks that as the entry of a person's name in the Revenue Records as occupant of a ~~particular~~ particular field is not conclusive proof of that person's proprietary right either in the whole field or any portion of it, the issue in the form in which it was settled by the Judge was insufficient for the determination of the rights of the parties in this action.

Abraham Forbes,

Att. Gen. Forbes,

MEMORANDUM OF COSTS incurred in Special Appeal No. 887

of 1864 against the decision of the Judge of the District of *State* — and disposed of on the 2 February 1865 by *remanding the same for retrial*

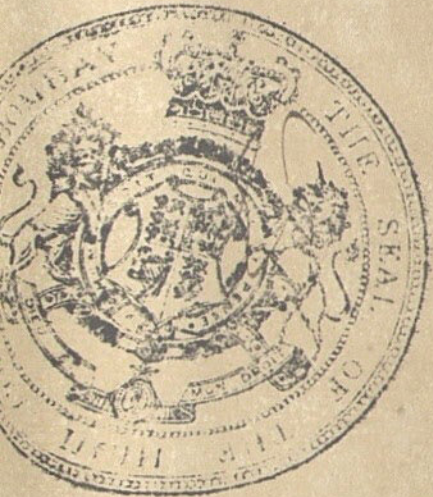
IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment	2		
Stamp for Vukeelutnama	2		
Batta for Process and Postage	1	1	..		
Sectioner's Fee	1	2	..		
Vukeel's Fee one-fourth		17		6	47
				Rupees	6 47

BY THE RESPONDENT—

Stamp for Vukeelutnama	0	0	0		
Vukeel's Fee one-fourth	0	0	0		
					0 00
				Rupees	0 00



W. J. J.
Sealer

R. West
Registrar

The 2nd day of February 1865

Issued a certificate on Her Majesty's
Treasury the Bank of Bombay for the
refund of Rupee (1) one only being the
value of Stamp used for Special appeal
in this case

Dated the 2^d February 1865

R. West
Registrar

W. H. M.

Certificate given to the Bank of Bombay