

In the High Court of Judicature, Bombay.

Friday, the 3 day of February 1865.

SPECIAL APPEAL No. 897 of 1864.

Tribhoroondas Jugjivandas of
Bombay

Appellant,

(Original Plaintiff)

versus

Motilal Pandas of the
Koukhan District

Respondent

(Original Defendant)

Rs. 999-15-11.

The claim in the Original Suit was to recover a balance of account -
the defendant's liability was denied on the ground that the trans-
actions had been of a gambling character.

In Appeal No. 272 of 1864 the Judge
of the District of the Koukhan at Tannah on a remand from the High Court
No 343 of 6 August 1863. reversed
the Decree of the Munsiff at Basain who had decreed for Plaintiff.

A Special Appeal was preferred in the High Court on the grounds that (1) the decision
of the District Judge is contrary to law.

1st In that Respondent not having called
in question the correctness of any particular
item or items in appellants' account, the
Judge

Judge should not have reversed the Moonsiff's decree on the grounds he has done.

2nd In that the District Judge has disregarded the letters Nos. 28, 29, 30, 38. and others many of which are admitted by Respondent, in holding that the account is not proved and consequently that no balance is due to Appellant.

3rd In that that the District Judge erred in commenting on the remand by the Assistant Judge that being a solemn act of the Court by which the parties are estopped.

4th In that the District Judge erred in reversing the Moonsiff's decree without first receiving all the evidence tendered by appellant and not considered necessary by the Moonsiff.

5th In that under the circumstances of the case the burden of proof should have been cast on Respondent which has not been done.

The Court reverse the decree of the District Judge & confirm that of the Moonsiff dated the 12th March 1864. ^{Costs in Spl. Respondent}

A. Winlock Forbes.

Att'y for Dues

MEMORANDUM OF COSTS incurred in Special Appeal No. 897

of 1864 against the decision of the Judge of the District of the *Konkan* and disposed of on the 3rd February 1865 by reversing the decree of the Judge and confirming that of the *Mooniff*.

BY THE APPELLANT—

IN THE DISTRICT.

In the <i>Mooniff's</i> Court	127 66.		
In the <i>Judge's</i> Court	31 ..		
			158 66.

IN THIS COURT.

Stamp for Memorandum of Special Appeal	50 ..		
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	3 ..		
Batta for Process and Postage	1 14 ..		
Sectioner's Fee	2 9 6		
Vukeel's Fee	30 ..		
			89 7 6.

Rupees... 247 14 ..

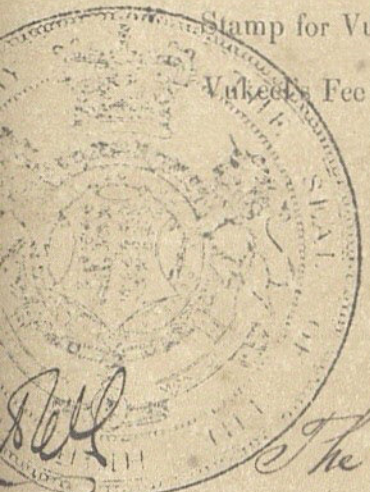
BY THE RESPONDENT—

IN THE DISTRICT.

In the <i>Mooniff's</i> Court	115 ..		
In the <i>Judge's</i> Court	87 3 6		
			202 3 6.

IN THIS COURT.

Stamp for Vukalutnama	" ..		
Vukeel's Fee	" ..		
	" ..		
			" ..
			Rupees... 202 3 6.



W. S. Seal

The 3rd day of February 1865

P. W. Registrar