

In the High Court of Judicature, Bombay.

*Five* day, the 31<sup>st</sup> day of *January* 1865.

SPECIAL APPEAL No. 906

OF 1864.

*Lakshman Dikshit bin Rameshchandra Dikshit*  
*deceased, his son and heir* } Appellant  
*with deceased his heir Babaji Dikshit*  
*raiyat of the Putnagiri Division of the*  
*Konkan District (Original Plaintiff)*

*Sukho Shondes Leli* <sup>versus</sup> *and Sudashin*  
*Sukharam Leli* of the Putnagiri Di- } Respondent  
*vision of the Konkan District*  
  
(Original Defendants)

Rs. 300 ———

The claim in the Original Suit was to *compel Defendant no. 2 to*  
*affix his assent to a Kurbuleyat, according to*  
*agreement*

In Appeal No. *45* of 1864 the *Sen. & Assist. Judge*  
of the District of *the Konkan* at *the det. etc. Putnagiri* amended  
the Decree of the *Judge of Rajapur* who *had awarded the claim,*  
*by directing that Def. etc. assent to the Kurbuleyat,*  
*on condition that Plff. should furnish receipts for the*  
*costs in previous suits.*

A Special Appeal was preferred in the High Court on the grounds that *the decision of*  
*the Senior Assistant Judge is contrary to law.*

(1) In that the Senior Assistant Judge erred in hold-  
ing that appellant was not entitled to possession of  
the

The property in dispute under the agreement between the parties.

2<sup>nd</sup> In that independant of the agreement appell-  
cant was entitled to and should have been awarded  
possession of the property in dispute.

3<sup>rd</sup> In that the Senior Assistant Judge erred in  
holding that passing a Kuboolayut for a Khotee  
estate was not equivalent to being vested with pos-  
session.

4<sup>th</sup> In that the Senior Assistant Judge misunder-  
stood appellants' plaint in supposing there  
was therein, an averment that appellants mort-  
gage began after Respondent's mortgage had  
been paid off whereas the averment in the plaint  
mentioned was that appellant whilst mortga-  
gee assigned his rights to Respondent and  
then redeemed the property after paying off  
Respondent's lien; this misconception of the  
ground of action having led to an error in  
the decision of the case on its merits.

The Court amends the decree of the Sen.  
Assis. Judge, and reverses the decree of the  
Munsiff, thereby throwing out the Plaintiffs'  
claiming special appeal  
Costs on Special Appellant.

R Couch  
A. C. W. M.

S. M. Warden

MEMORANDUM OF COSTS incurred in Special Appeal No. 906.

of 1864 against the decision of the Senior Appellate Judge of the District of the Nionkua and disposed of on the 31<sup>st</sup> January 1865 by Announcing the decree of Senior Judge & reversing that of the moonsiff thereby throwing out the Plaintiff's claim.

BY THE APPELLANT—

IN THE DISTRICT.

In the Moonsiff's Court	34.2	0	0	✓
In the Senior Judge's Court	9.8	0	0	✓
			43.10	✓

IN THIS COURT.

Stamp for Memorandum of Special Appeal	16	0	0	✓
Stamps for copies of Decree and Judgment	3	0	0	✓
Stamps for <del>V</del> ukalutnama <del>tax</del>	4	0	0	✓
Stamp of an application to enter the name of the Appellant's heir	2	0	0	✓
Batta for Process and Postage	2	1	0	✓
Sectioner's Fee	1	3	0	✓
Vukeel's Fee	9	0	0	✓
			37.4	✓
			Rupees.... 80.14	✓

BY THE RESPONDENT—

IN THE DISTRICT.

In the Moonsiff's Court	12.8	0	0	✓
In the Senior Appellate Judge's Court	27.5	6	0	✓
			39.13.6	✓

IN THIS COURT.

Stamp for <del>V</del> ukalutnama	2	0	0	✓		
Vukeel's Fee	9	0	0	✓		
			11	0	0	✓
			Rupees.... 50.13.6	✓		



*[Handwritten Signature]*

*[Handwritten Signature]*  
Registrar

The 31<sup>st</sup> day of January 1865