

In the High Court of Judicature, Bombay.

Friday, the 7th day of April 1865.

SPECIAL APPEAL No. 418 of 1864

Mrs Bhugwant Dow-
- Lay Khote of the Put-
- nageri Division of the
- the Konkan District
(Original Plaintiff)

Appellant

versus

Balaji Bapaji deceased his
- heirs Bapaji & Sudashiv deceased
- his heir and widow Komabai & Mahade-
- ji Bulal & Sukharao Bulal deceased his heirs
- Venait & Mastand minor his guardian Sump-
- mibai Widow of Sukharao of the Putnageri
- Division of the Konkan Dis-
- trict
(Original Defendants)

Respondent

Rs. 80-4-0-

The claim in the Original Suit was to recover possession of a 2nd share of a Khote village, the sum for which it had been mortgaged having been paid off.

In Appeal No. 59x97 of 1864 the Sen. Judge of the District of the Konkan at the amended Decree of the Sen. Judge of Putnageri who had decreed redemption of the property on payment of Rs 578-2-3, by fixing the amount to be paid by P.W. at Rs 818-2-3.

A Special Appeal was preferred in the High Court on the grounds that the decision

of the Senior Assistant Judge is erroneous

Tray

trary to law in that

a The Senior Assistant Judge + refused to deduct the profits derived by the Respondents since the decree from the principal due by the appellants.

b The Senior Assistant Judge + was wrong in holding the rejection of the Defendants applications for the execution of the decree was not to be charged to the respondents.

c In allowing the appellants right to be prejudiced by delays + not occasioned by him.

d The respondents having obtained a decree upon the mortgage deed, cannot claim interest upon the amount adjudged in their favor unless the decree should so direct.

The Court confirms the decree of the Sen. Assis. Judge.

Costs on Special Appellant.

Abhielock Forbes,
R Couch

