

In the High Court of Judicature, Bombay.

Friday, the 10th day of February 1865.

SPECIAL APPEAL No. 949 — of 1864

Moro Sudashiv Khure of the
Konkan District

Appellant

(Original Plaintiff)

versus

Gondia and Govind bin
Bhiva Bhopi of the Konkan
District

Respondents

(Original Defendants)

Rs. 101-0-0

The claim in the Original Suit was to

obtain possession ~~record~~ on a deed of sale of some
fields and buildings

In Appeal No.
of the District of
the Decree of the

150
of the Konkan
Distt of Kallian

of 1864

the
at
who

Assistant Judge
Jemraj Colborne
who sent through the decree

A Special Appeal was preferred in the High Court on the grounds that the decision of the assistant judge is contrary to law in that:
a The Assistant judge has wrongly held that Gopal had no right to transfer.

- b The presence or absence of a party in whose favor a deed is executed does not affect his rights under it, and cannot prevent him from transferring them to another.
- c The execution of the sale deed in favor of Gopal, and his release to the appellant was enough to give the latter the rights claimed by him.
- d There is nothing on the record to show that Gopal had not authorized the appellant to pay the money.

The Court holds that if the transaction were made in good faith and the consideration in money for which the deed was passed duly paid the fact that the conveyance was made in another person's name who subsequently conveyed his interest to Plaintiff would be no ground for rejecting Plaintiff's claim. The Court therefore reverse the Assis^t Judge's decree and demand the writ that the lower Appellate Court may determine, whether the Court of first instance decided correctly in holding, on the evidence before it, that no consideration had been given for the deed Exhibit No. 3 and may decide in accordance with his judgment on this issue.

Cost to follow final decision.

Atkinchankur Forbes.

J.P. S. S. S.

MEMORANDUM OF COSTS incurred in Special Appeal No. 949

of 186 4 against the decision of the *Assists Judge* of the
at Tanua
 District of the *Konkuna* and disposed of on the 10th February 1865
 by remanding the same for retrial.

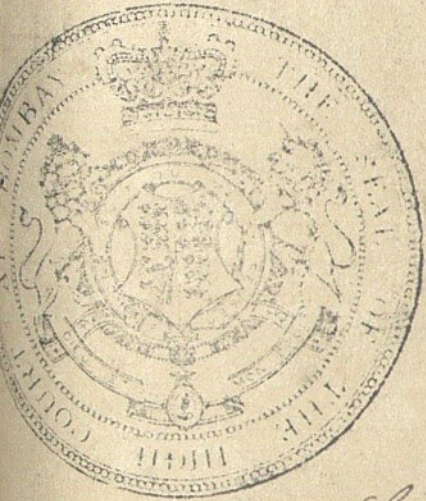
IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment	3	"	"		
Stamp for Vukeelutnama	2	"	"		
Batta for Process and Postage	2	2			
Sectioner's Fee	1	9	"		
Vukeel's Fee one-fourth	"	12	1		
				9	7
				1	
				Rupees....	9 7 1

BY THE RESPONDENT—

Stamp for Vukeelutnama	2	"	"		
Vukeel's Fee one-fourth	"	12	1		
				2	12
				1	
				Rupees....	2 12 1



W. J. West
Registrar
 The 10th day of February 1865.

66

Issued a certificate on Her Majesty's Treasury
the Bank of Bombay for the refund of Rs.
(8) eight only being the value of stamp
used for special appeal in this case

Dated the 10th day of February 1865

J West
Registrar

Certificate given to Registrar