

In the High Court of Judicature, Bombay.

Thursday, the 8th day of June 1865.

SPECIAL APPEAL No. 956 of 1864.

Trimbick Wulud Keros Phowane
of the Ahmednugur District
(Original Defendant)

Appellant

versus

Savaji Wulud Savaji Patel Secretari
deceased his heirs ^{wid. Phowani} Daji 5 years
Wulud Phowane deceased, ^{wid. Yeogy}
heirs ~~to~~ Rama 5 years of Wulud
Phowane deceased their heirs
Daji Wulud Phowane and
Rama Wulud years of the Ah-
mednugur District Original
Plaintiffs

Respondent

Rs. 51-5-9

The claim in the Original Suit was to recover possession of some
pieces of land said to have been purchased by the
ancestors of original Plaintiffs many years ago which
they let to Trimbick and which he was ordered to restore
In Appeal No. 259 of 1864 the Judge
of the District of Ahmednugur at Ahmednugur reversed or
the Decree of the ^{Magistrate} of Ahmednugur who had thrown out the claim.
Bombay

A Special Appeal was preferred in the High Court on the grounds that (1) the decision
of the District Judge is contrary to law
in that he ^{was} reversed in holding that
Lawjee was not separated in interests
from

from Phowance and the others thro whom
Respondents claim, the ^{District} judge finding
as a fact that there was separation
in domestic habits and that the said
Sowjee had been for 18 years in
exclusive possession of the land in
dispute that (2) under the circumstances
set forth in the 1st issue the judge
erred in throwing the onus of proving
separation on appellants, it being for
Respondents to show that no separation
in interests had taken place that (3)
the judge held erroneously that Respond-
ents were by Shindoo Luro the heirs of
the deceased Sowjee and as such entitled
to the land in dispute and that (4) the ^{District}
judge awarded a claim barred by the
statute of limitations.

The Court reverses the decree of the District
Judge and remands the suit in order that
Rukhmal the wife of Trimbuka may be

made a Defendant in the writ, and a
new decision passed on the merits appropria-
ting costs.

Rukhmal will have the privilege of hearing
the evidence in the case taken over again unless
she waives her right to do so.

The Judge should decide whether or not
Rukhmal is the daughter of Loojee.

A. Millock Forbes.

A. W. Marden

MEMORANDUM OF COSTS incurred in Special Appeal No. 956

of 1864 against the decision of the Judge of the District of Ahmednagar and disposed of on the 8th June 1865 by remanding the same.

IN THIS COURT.

BY THE APPELLANT—

Stamps for copies of Decree and Judgment	3	"	"	✓
Stamp for Vukeelutnama	2	"	"	✓
Batta for Process and Postage	1	"	"	✓
Sectioner's Fee	2	2	"	✓
Vukeel's Fee one-fourth	"	6	2	✓
				9 3 2 ✓
				Rupees ... 9 3 2 ✓

BY THE RESPONDENT—

Stamp for Vukeelutnama	2	"	"	✓
Vukeel's Fee one-fourth	"	6	2	✓
				2 6 2 ✓
				Rupees.... 2 6 2 ✓



W. J. Ash

Sealer

The 8th day of June 1865

R. West
Registrar

Issued a Certificate on Her Majesty's Treasury the
Bank of Bombay for the refund of Rupees four (4)
being the value of the Stamp used for Special appeal in
No 953 of 1864

Dated this 12th day of June 1865

[Signature]
Registrar

[Signature]

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