

In the High Court of Judicature, Bombay.

Two day, the *28* day of *Feb* 186*5*

SPECIAL APPEAL No. *970* or 186*4*

Vakta Jivan of the Konkan District

Appellant

(Original Defendant.)

versus

Sobhagia Keshav by his agent Balaji Narayan of Bombay

Respondent

(Original Plaintiff.)

Rs. *18-8-00*

The claim in the Original Suit was to

raise an attachment placed on property mortgaged to him by a third person as judgment creditor of the mortgagee

In Appeal No. *269* of 186*4* of the District of *Konkan* at *Dharwad* the Decree of the *Sudder Amin* who

reversed the claim and decreed that the attachment should be paid

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

the Principal Sudder Amin is contrary to law in that a The court below gave preference to the Respondent's deed of sale over the appellant's

of mortgage of a prior date.

b The land in dispute having been attached under the appellants decree cannot be made over to the Respondent whose decree was not executed till after the attachment.

c The appellate Court was wrong in ruling that by Hindu Law a mortgage is not valid without possession.

d The land having been sold in execution of the appellants decree, he is entitled to receive payment of his judgment debt before all the other decree holders.

congruous the decree of the Court below with the facts

The Court

R. Couch
Hester.

A. M. Warden

Antony

