

poona

In the High Court of Judicature, Bombay.

Monday, the 20th day of February 1865.

SPECIAL APPEAL No. 984 OF 1864.

*Bhikaji Wulud Wathoo Comap
and Sakaram wulud Settee of the* } Appellants
Poona District (Original Defendants)

versus

Aybuti wulud Junhaji Comap } Respondent,
of the Poona District }
_____ (Original Plaintiff)

Rs. 19-9-6

The claim in the Original Suit was to *recover possession of certain
divided lands, and the trees growing thereon.*

In Appeal No. *104* of 1863 the *Jessis' Judge*
of the District of *Poona* at *Poona* *confirmed*
the Decree of the *Judge of Poona* who *did and does the claim.*

A Special Appeal was preferred in the High Court on the grounds that *the decision of
the District Judge is contrary to law in that*
(1) *Respondent having failed to prove the
averments in his plaint, The District Judge
erred.*

erred in awarding unreservedly in his favour;
that (2) the District Judge erred in holding the
mortgage not proved because the mortgaged deed
was neither signed nor marked by the alleged
grantor; that (3) the District Judge ^{im} properly
held that the said deed is invalid from want
of a stamp; ~~and~~ that (4) the Moonsiff having
on improper grounds declined to receive evidence
tendered by Appellant, and Appellant
having made this a point in his Appeal to
the ^{District} Judge; the District ^{Judge} erred in proceeding
to Judgment without first receiving the evidence
so tendered or assigning a reason for not doing
so: and that (5) the District Judge has given
no reason for not awarding Appellant the
sum of Rupees 12 paid by Appellant for
preservation of Respondents land.

The Court conforms the decree of the District
Judge.

Costs in Special Appellant.

A. Philoch Forbes.

H. P. Forbes,

