

In the High Court of Judicature, Bombay.

Thursday, the 16<sup>th</sup> day of February 1865.

SPECIAL APPEAL No. 985 OF 1864.

Daji Mahadeo Joshi deceased  
his son and heir Varayun of  
the Rutnagiri Division of the  
Konkan District

Appellant

(Original Defendant)

versus

Varayunbhat Chhatre of  
the Rutnagiri Division  
of the Konkan District

Respondent

(Original Plaintiff)

Rs. 1/2-4-6

The claim in the Original Suit was to establish a right to redeem certain lands mortgaged to the defendant.

In Appeal No. 107 of 1860 the Senior Assistant Judge of the District of Rutnagiri (under the H. Ct.) decreed for the respondent on a remand of the case had decreed for the respondent to redeem certain portions of the lands on payment of Rs 252 1/2, by decreeing that the appellant should redeem certain portions of the lands on payment of Rs 179-0-0.

A Special Appeal was preferred in the High Court on the grounds that a substantial error in law in the investigation of the case has been made occurred which has caused an error in the decision of the case upon its merits in that.

(a) The Senior Assistant Judge having no

power to decide beyond the terms of the decree of the Court, has deducted Rupees 12 per annum from the amount of the assessment debitable to the opposite party on account of lands unconnected with the land in dispute

(b) That the said deduction of Rupees 12 per annum has been made without any evidence for the estimation of the said assessment.

(c) That if the said deduction was to be made in debiting the opposite party with the assessment, then a corresponding deduction should in equity have been made from the amount of the produce of the same lands debited <sup>to</sup> the Appellant.

(d) The court below has decreed absolute restoration of the land without respecting the Appellants' right to hold the same Swamitwa, the High Court's decree having directed such a decree to be passed as may be just.

(e) The Court below has, in taking the maximum amount named by the Appellant as being the amount of produce per year, taken Rs. 144-8-0 instead of Rs. 130-8 the latter being the correct sum.

(f) The Appellant, ~~above named~~ prays for the reception of the following papers which he has become aware of and obtained since the decree of the lower Court.

1 Appeal petition by opposite party against Balshet Tanshet, and Putunet Selee dated 21<sup>st</sup> August 1830 containing admissions of Appellants' right to hold the land.

2 Letter to Abaji Mahadeo (brother of deceased)

deceased Appellant Dajee Mahadeo) by  
asset Fee dated Chaitra Vudya 12<sup>th</sup>/<sub>11</sub>  
Sukre 1712 produced by opposite party in  
a suit in 1829. →

3 Deposition by opposite party's witness  
Wassodeo Purushram (now deceased) in the  
suit of 1829. →

The Court confirms the decree of the Sen.  
Assis<sup>t</sup>. Judge.

Costs on Special Appellant.

A. Kinloch Forbes.

H. M. Tucker,

MEMORANDUM OF COSTS incurred in Special Appeal No. 985  
of 186 4 against the decision of the Senior Appellate Judge of the  
District of the Nonkum and disposed of on the 16<sup>th</sup> February 1865  
by Confirming the same with costs

BY THE APPELLANT—

IN THE DISTRICT.

In the Sudder Amins Court	61	10		
In the Senior Appellate Judge's Court	21	5	9	
				82. 77

IN THIS COURT.

Stamp for Memorandum of Special Appeal	8	..	;	
Stamps for copies of Decree and Judgment	4	8	..	
Stamp for Vukalutnama	2	..	;	
Stamp of an application to enter the name of the Appellant's heir		"	"	;
Batta for Process and Postage	1	9	"	
Sectioner's Fee	2	12	"	
Vukeel's Fee	3	5	11	
				22. 2 11

BY THE RESPONDENT—

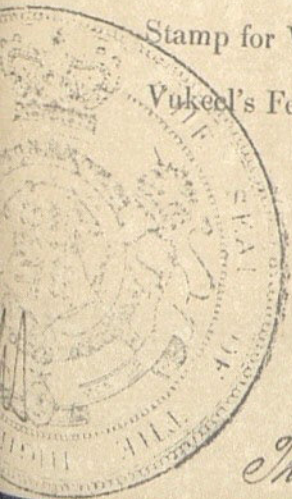
Rupees.... 104. 10 6

IN THE DISTRICT.

In the Sudder Amins Court	50	15	3	
In the Senior Appellate Judge's Court	22	14	10	
				73. 14 1

IN THIS COURT.

Stamp for Vukalutnama	2	..	;	
Vukeel's Fee	3	5	11	
				5 5 11
				Rupees.... 79 4 ..



*[Handwritten Signature]*

The 16<sup>th</sup> day of *Sealer* February 1865

*[Handwritten Signature]*  
Registrar