

In the High Court of Judicature, Bombay.

Wednesday, the 7th day of June 1865.

SPECIAL APPEAL No. 988 of 1864.

Meherali wulud Bharmul Khoja -
deceased by his son and heir Puhimutla a minor by his guardian and uncle Pirbhai Bharmul of the Konkan District (Original Plaintiff.)

Appellant

versus

Lutchmidas and Vitul gya-
-ram and Nurotam Kurum -
-chund Wani of the Konkan District (Original Defendants.)

Respondents.

Rs. 52. - - -

The claim in the Original Suit was to compel the closing of a door, four drains, and a waterpipe, opening into a lane, the property of Plaintiffs.

on In Appeal No. 180 x 96 of 1864 the Judge of the District of the Konkan at Dahanu amended the Decree of the P.S.C. of Tanna who had awarded Plaintiff's claim to the extent only of the closing of the door, by throwing out the entire claim.

A Special Appeal was preferred in the High Court on the grounds that (1) a substantial error in law has occurred in the investigation of the case which has produced an error in the decision of the case on its merits, in that the

the bond N^o 11 having been admitted by Lu-
-kshumundas the appellate court was in
error in awarding to the purchaser from him
the right which did not belong to him (Lukh-
shumundas) and the decision is contrary to
the terms of the bond that (2) even if a portion
of the appellants' property under the bond
N^o 11 was subsequently transferred by Hurgovin
to the Respondent under the bond N^o 13 still
the transfer made unauthorizably cannot
affect the appellants' right - whereas the
appellate court erroneously threw out their
claim. (3) the appellate court considering
that the appellants' chusma was one of the
four chusmas of Lukhshumandas awarded
against the right of appellants, which was
an error and that (4) the shutters of the door
which open outside and which were newly made
and should open inside, and although the Respondent
has admitted in Exhibit N^o 42 that the
shutters were newly made, yet the appellate
court gave decision contrary to his admission
which was an error.

The court confirms the decree of the District
Judge.

Costs on Special Appellant. A. K. M. Forbes
A. M. M. M. M.

MEMORANDUM OF COSTS incurred in Special Appeal No. 988

of 1864 against the decision of the Judge of the District of the Ronkun and disposed of on the 7th day of June 1865 by confirming the same

BY THE APPELLANT—

| In the District. | | | | |
|--|------------------------------|----|-----|----------|
| In the | Principal Sudar Aminis Court | 19 | " 6 | ✓ |
| In the | Judges Court | 11 | 38 | ✓ |
| | | | | 30 4 2 ✓ |
| In this Court. | | | | |
| Stamp for Memorandum of Special Appeal | | 4 | " " | ✓ |
| Stamps for copies of Decree and Judgment | | 3 | " " | ✓ |
| Stamp for Vukeelutnama | | 2 | " " | ✓ |
| Batta for Process and Postage | | 2 | 8 " | ✓ |
| Sectioner's Fee | | 3 | 3 " | ✓ |
| Vukeel's Fee | | 1 | 9 " | ✓ |
| | | | | 16 4 " ✓ |
| Rupees.... | | | | 46 8 2 ✓ |

BY THE RESPONDENT.

| In the District. | | | | |
|------------------------|------------------------------|---|------|-----------|
| In the | Principal Sudar Aminis Court | 9 | 15 " | ✓ |
| In the | Judges Court | 6 | 138 | ✓ |
| | | | | 15 12 8 ✓ |
| In this Court. | | | | |
| Stamp for Vukeelutnama | | 2 | " " | ✓ |
| Vukeel's Fee | | 1 | 9 " | ✓ |
| | | | | 3 9 " ✓ |
| Rupees.... | | | | 20 5 8 ✓ |

R. West
Registrar

W. J. P. S.
Sealer

The 7th day of June 1865