

(1869) 04 CAL CK 0013

Calcutta High Court

Case No: Special Appeal No. 2378 of 1868

Puhubnath Jha

APPELLANT

Vs

Becharam Chowdhry

RESPONDENT

Date of Decision: April 26, 1869

Judgement

Norman, J.

In this case the defendant erected a bund across a stream, the effect of which has been to throw back the water of the stream upon the land of the plaintiff, and destroy his crops. The tower Appellate Court has given the plaintiff a decree for the amount of injury which he sustained. There is no doubt that the decision of the lower Appellate Court is quite correct. The rule, regulating the enjoyment of water flowing in its natural course, is that no proprietor can lawfully pen back the water by erecting a bund upon his own land, so as to inundate the land of his neighbour without the license or consent of that neighbour. The rule is clearly stated in page 334 of the third edition of Broom's Legal Maxims, under the maxim "sic utere tuo ut alienum non la das," in other words, every man must enjoy his own property in such a manner as not to injure that of any other person. The appeal is dismissed with costs.