

Indian Easements Act, 1882

Section 24 - Right to Do Acts to Secure Enjoyment

The dominant owner is entitled¹, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement; but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Accessory rights.--Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

Illustrations

(a) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.

(b) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(c) A as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown it own and falls across it. A may enter on B's land and repair the way or remove the tree from it.

(d) A as owner of a certain field, has a right of way over B's land. B renders the way impassable A may deviate from the way and pass over the adjoining land to B provided that the deviation is reasonable.

(e) A as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(f) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

(g) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept by an inundation. A may enter upon B's land and repair the dam.

1. But see section 36; infra, as to abatement of obstruction of easement.