

**Munno and ors. Vs. Gopi Nath**

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**SooperKanoon Citation :** [sooperkanoon.com/448265](http://sooperkanoon.com/448265)

**Court :** Allahabad

**Decided On :** Jul-11-1906

**Reported in :** (1907)ILR29All22

**Judge :** Banerji, J.

**Appellant :** Munno and ors.

**Respondent :** Gopi Nath

**Judgement :**

**Banerji, J.**

1. The suit which has given rise to this appeal and the connected appeal No. 1011 of 1904 was brought by the plaintiffs respondents for the removal of a shed and sirki screens put up by the defendant appellant in front of his shops. The ground of the claim is that the shed and the screens obstruct the view of the plaintiffs' shops from the neighbouring road. The plaintiffs own certain shops for the sale of grain facing the north. Close by are the shops of the defendant facing the west. In front of the shops of both parties was an open space, to the north of which lies a public road. The defendant has put up the shed in question in front of his shops and has enclosed it with sirki screens. The only ground of the respondents' claim is, as I have said above, that these constructions obstruct the view of their shops from the road. The Court below has decreed the claim. It is contended in this appeal that a suit like this is not maintainable. In my judgment the contention is well founded. It

is now settled law that no action will lie for the obstruction of the prospect of a house. There is no question in this case of obstruction to or diminution of light and air. The only right claimed is that the plaintiffs are entitled to undisturbed prospect of their shop from the road. In *Smith v. Owen* (1866) 35 L.J., Ch., 317 it was held that the Court will not restrain the erection of buildings which merely prevent goods displayed in a shop from being seen from places whence they would previously have been seen. In *Butt v. Imperial Gas Company* (1866) L.R., 2 Ch., 158, it was held that the erection of a building will not be restrained because it injures the plaintiff by obstructing the view of his place of business. The law on the Subject is clearly stated in *Goddard on Easements*, sixth edition, pages 116 to 118. The principle laid down in the English cases referred to above equally applies to cases arising in this country. It is admitted that access to the plaintiffs' shops has not been obstructed. All that is complained of is the interruption to the view of the shops from the neighbouring road. This would not entitle the plaintiffs to have the constructions removed. It is said that by reason of these constructions the letting value of the plaintiffs' shops has been diminished. If that is so, the plaintiffs may have a remedy in damages. But as no damages were claimed in this case, that question need not be considered and determined. As the ground upon which the plaintiffs ask for a decree for removal of the shed and screens is untenable, the suit must fail. I accordingly allow the appeal, set aside the decrees of the Courts below, and dismiss the plaintiffs' suit with costs in all Courts.