

Joti Prasad Vs. Emperor

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Court : Allahabad

Decided On : Dec-09-1936

Reported in : AIR1937All361

Appellant : Joti Prasad

Respondent : Emperor

Judgement :

ORDER

Allsop, J.

1. This is a reference by the learned Sessions Judge of Saharanpur that, a fine of Rs. 4 inflicted upon Jyoti Prasad by a Bench of Honorary Magistrates under Section 185, Municipal Act, should be set aside. Joti Prasad is alleged to have made two doorways in his house opening upon a court-yard which was common to him and Munni Lal. The learned Judge has suggested that the opening of a doorway is not a material alteration within the meaning of Section 178, Municipalities Act. I think whether it is or is not is a question of fact because the opening of a very large doorway or something of that kind might prejudicially affect the support or safety of a building, but in the present case I agree with him that there is no reason for thinking that the opening of these doors was a matter with which the Municipal Board was really concerned. From the judgment of the Honorary Magistrates it appears that they were affected by the fact or allegation

that these doorways invaded the privacy of Munni Lal. It is not part of the duty of a Municipality to decide private disputes between citizens. In the circumstances of the present case I accept the reference and set aside the conviction and sentence. If the fine or any part of it has been paid the money shall be refunded.

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