

pretation, namely, that the allowance must be regarded as strictly the official remuneration of the person filling the office\*—Sec. 20 of Reg. XVI. of 1827—is no longer applicable, now that a female is allowed to appoint a deputy to perform service, and *à fortiori* it is inapplicable in cases like the present, in which no service is to be performed at all. As to the question of custom, the Judge has found on the evidence that no custom excluding females exists. It is no answer to this to say that it is shown that such custom did exist previously to 1843. Custom ordinarily follows the law, and so long as a female could not succeed by law, it almost necessarily followed that she could not succeed by custom. As to the exhibit No. 8, it is sufficient to say that, although the Judge has not referred to it, there is no reason to believe that he did not consider it, and it is not binding on the plaintiff either as an admission or as an agreement.

1871.  
 BA'I SURAJ  
 v.  
 GOVERNMENT  
 OF BOMBAY  
*et al.*  
 BAPU'BHA'I  
 KHUSHA'LDA'S  
*et al.*  
 v.  
 BA'I SURAJ  
 &  
 GOVERNMENT  
 OF BOMBAY.

We, therefore, confirm the decree of the District Judge.

*Decree affirmed.*

*Special Appeal No. 142 of 1870.*

July 6.

KESHAV HARKHA' ..... *Appellant.*  
 GANPAT HIRA'CHAND ..... *Respondent.*

*Privacy—Invasion of Privacy—Custom of Gujarát—Opening of Windows overlooking Neighbour's Premises.*

Where a window opened by the defendant commanded a view, not of the plaintiff's private apartments, but of an open courtyard outside his house, it was held that there had been no invasion of the plaintiff's privacy which would entitle him to have the window closed, according to the custom legally recognised in Gujarát.

THIS was a special appeal from the decision of M. H. Scott, Extra Assistant Judge at Ahmedábád, in Appeal No. 77 of 1868, reversing the decree of the Principal Sadr Amin of Ahmedábád.

\* "The allowance so derived by a sole proprietor or occupant of an hereditary district or village revenue office shall in future be considered strictly as the official remuneration of the person filling the office, and, as such, shall not be subject to alienation by any incumbent." Sec. xx., cl. 1, Reg. XVI. of 1827.

1871. The plaintiff sued to compel the defendant to close a window, which he alleged invaded his privacy.  
 KESHAV  
 HARKHA,  
 v.  
 GANPAT  
 HIRA'CHAND.

The court of first instance rejected the plaintiff's claim; but on remand from the High Court the Extra Assistant Judge in appeal awarded it.

The special appeal was heard by MELVILL and KEMBALL, JJ.

*Nagindás Tulsidás* for the special appellant.

*Dhirajlál Mathurádás*, Government Pleader, for the special respondent.

PER CURIAM :—In *Manishankar Hargovan v. Trikam Narsi et al.*, Special Appeal No. 443 of 1866 (a), which may be taken to be the leading case on the subject of the exceptional privilege of privacy which the inhabitants of Gujarát have succeeded in establishing, the court described that privilege in the following terms :—“ A series of decisions, extending over a number of years, has settled the question that, in accordance with the usage of Gujarát, a man may not open new doors and windows in his house, or make any new apertures, or enlarge old ones, in a way which shall enable him to overlook those portions of his neighbour's premises which are ordinarily secluded from observation, and in this manner to intrude upon that neighbour's privacy, and that an invasion of privacy is an infraction of a right, for which the person injured has a remedy at law.” We are certainly not disposed to extend the privilege further than it was carried in that case; and as it appears from the Assistant Judge's judgment in the present case that the window opened by the defendant looks, not into the plaintiff's private apartments, but into an open courtyard outside his house, we are of opinion that there has been no invasion of the plaintiff's privacy which will entitle him to have the window closed.

*Decree of lower courts reversed, and claim disallowed.*

(a) 5 Bom. H. C. Rep., A.C.J. 42. Vide also *Kuvarji v. Bái Javer*, 6 Bom. H. C. Rep., A.C.J. 143.