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carrying *tabuts* along a certain public road is not any such particular loss or injury as the precedents, English or Indian, would justify us in pronouncing to be such a damage as would sustain a civil action.

We must, accordingly, reverse the decree of the District Judge, and make a decree for the defendants. The parties, respectively, must bear their costs of the suit and of both appeals. While regretting that they should both be deprived of the pleasure of annually carrying their *tabuts* in procession for immersion in the sea according to their wonted custom, we must counsel obedience to the discreet orders of the Magistrates—issued, no doubt, under section 518 of the Criminal Procedure Code, in order to prevent the occurrence of any riot or breach of the peace, which, so long as the parties are animated with hostile feeling towards each other, is possible, if either party be permitted to indulge in a public ceremonial in a particular quarter of the town objected to by the other. We further advise the parties to come to some mutual understanding on the subject, and we have no doubt that, when they have satisfied the Magistrate that the *tabuts* may be carried peacefully along the public roads, he will withdraw the inhibition which he has felt it necessary to issue.

Decree reversed.

[APPELLATE CIVIL.]

Before Sir M. R. Westropp, Knt., Chief Justice, and Mr. Justice Nánábhái Haridás.

1875. August 12.

GEHANA'JI BIN KES PATIL AND OTHERS (ORIGINAL PLAINTIFFS), APPELLANTS *v.* GANPATI BIN LAKSHUMAN AND OTHERS (ORIGINAL DEFENDANTS), RESPONDENTS.*

Public obstruction—Right of suit.

In all civil suits for the removal of a public obstruction the plaintiff must show that he himself has suffered some particular inconvenience or injury resulting from the obstruction.

THIS was a special appeal from the decision of A. Bosanquet, District Judge of Ahmednagar, affirming the decree of Hari Kanhere, Subordinate Judge of Sangamner.

This suit was brought by Gehanáji and four others against Ganpati and two others for the removal of a wall erected by the defendant Ganpati on a piece of land situated at Kolhávádi, in Taluka Sangamner. The plaint stated that the land was public property used by all the villagers as a market place and play-ground, and that some time ago there had been an *otá* thereon which had been used by the villagers as a public seat. The plaint, however, did not allege any special damage or inconvenience to the plaintiffs themselves, beyond that which the other villagers sustained. Ganpati, by whom the suit was principally defended, alleged that the land in question

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was not public property, but on the contrary was his own ancestral property. He also raised the technical objection that, if it were public land as alleged by the plaintiffs in their plaint, the suit ought to be dismissed, as it was not brought by all the villagers. The Subordinate Judge held that the plaintiffs alone were not competent to bring the suit upon the allegation contained in the plaint. On the merits, he held the land to be the property of the defendant Ganpati. In appeal the District Judge raised only one issue, viz., whether the plaintiffs alone could bring the action, and decided it in the negative and against the plaintiffs.

The special appeal was argued before Westropp, C.J., and Nánábhái Haridás, J., on the 12th August 1875.

Shivshankar Govindrám, for the special appellant, referred to *Jiná Ranchod* v. *Jodhá Ghelá*, (1) and contended that, according to that ruling, the action could be maintained by his clients alone.

Vishnu Ghanashám, for the special respondent, was not called upon.

WESTROPP, C. J. :—In order to sustain this action, the plaintiffs were bound to show that they themselves had suffered some particular inconvenience by the conduct of the defendants; *Barodá Prasád* v. *Gorá Chand*, (2) per Peacock, C.J., followed in *Ráj Luckhee Debiá* v. *Chander Kant Chawdry*. (3) The case of *Jiná Ranchod* v. *Jodha Ghela* (4) does not seem to be inconsistent with this. The statement of facts in the report of that case is meagre, but we gather from the argument that some injury to the plaintiff, personally arising from the obstruction complained of, must have been alleged. The plaint in the present case having been read to us, we fail to perceive that any particular injury, resulting to the plaintiffs themselves, is alleged on their behalf; we must, therefore, affirm with costs the decrees of the Courts below which rejected their suit.

(1) 1 Bom H. C. Rep. 1.
(2) 3 Beng L. R. 295 A. C. J.; S. C. 12 Calc. W. R. 160 Civ. Rul.
(3) 14 *Ibid.* 173. (4) 1 Bom. H. C. Rep. 1.

[APPELLATE CIVIL.]

Before Sir M. R. Westropp, Knt., Chief Justice, and Mr. Justice Melvill.

December 6.

SHANKARA BIN MARABASA'PA' (ORIGINAL PLAINTIFF), APPELLANT *v.* HANMA' BIN BHIMA' AND OTHERS (ORIGINAL DEFENDANTS), RESPONDENTS.*

Chalvadi, office of—Disturbance of office—Gratuities received by intruder, action to recover—Caste question—Regulation II. of 1827, *Section* 21.

Plaintiff was the hereditary holder of the office of *Chalvadi*, or bearer, on public occasions, of the insignia or symbols of the Lingayet caste of Bágalkot, in the district of Belgaum. No fees as, of right, were appurtenant to that office, but voluntary gratuities might be given to the *Chalvadi*. In an action brought by plaintiff against defendant as an intruder upon his (plaintiff's) office,

Held that the action would not lie, if brought merely for the gratuities as moneys alleged to be received by defendant to the use of plaintiff.

* Special Appeal No. 98 of 1877.