

(1919) 12 BOM CK 0005
In the Bombay High Court
Case No : Second Appeal No. 692 of 1918

Harilal Lallubhai

APPELLANT

Vs

Bombay Baroda and Central India Railway

RESPONDENT

Date of Decision : 17-12-1919

Acts Referred:

Railways Act, 1890 — Section 7

Citation : (1920) 22 BOMLR 822 : 57 Ind. Cas. 601

Hon'ble Judges : Norman Macleod, J;Crump, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Norman Macleod, Kt., C.J.—The plaintiff, who is the owner of a bungalow on the west side of the B. B. & C. I. Railway close to the Nadiad Station, brought this suit against the Railway Company claiming a mandatory injunction directing the Company to have the old gate-way at the level crossing referred to in para 2 of the plaint re-opened, or to have some other convenient way made by the defendant Company for egress from and access to his bungalow or any other relief that the Court might deem fit with costs of the suit. The plan which has been produced shows the situation of the plaintiffs bungalow. The old level crossing was at point A and the new level crossing is at point D. Owing to the necessity of increasing sidings at Nadiad station, the Railway Company closed the level crossing at A and diverted the road to the crossing at the point D. It is obvious that point A was no longer a suitable place for a level crossing where constant shunting would be going on, and those who wanted to cross the Railway would probably be much inconvenienced by having to wait until the line was clear. The plaintiff complains that he is inconvenienced because he has to go a longer distance if he wishes to cross the Railway, and he also complains that at the point B on the map there is a dip in the road which makes it impossible to get to the point C during the monsoon The plaintiff relied upon the Indian Railways Act, Section 7, but it is quite clear that that section affords him no

assistance whatever. The Railway Company must necessarily under the Statute have very wide powers in order to carry on its business for public purposes, and it has got to consider not only the convenience of one owner of property bordering near the line but it has also got to consider the necessity for affording facilities to the public who wish to travel on the Railway and send their goods by the Railway, and it cannot possibly consider separately the interests of each individual who happens to live in the neighbourhood of the Railway line. It is quite true that the plaintiff in this case may have to go a few hundred yards further than before if he wishes to cross the line to go over to the east side, and it seems to be admitted that there is a place in the road between his bungalow and the crossing at point D which certainly ought to be improved, but that is a matter for the road authorities and not for the Railway Company, and if the plaintiff, instead of wasting his time asking the Court to grant his preposterous demands, had represented his case to the road authorities, it is quite certain that a remedy would have been provided before now. In my opinion the 1st decision of the learned District Judge was perfectly correct, and there can be no doubt that the Railway Company were well within their powers in closing the level crossing at the point A, and they had fulfilled all the requirements which the law imposed on them by providing another level crossing at point D. The appeal, therefore, is dismissed with costs.

Crump, J.

I concur.