

(1936) 12 AHC CK 0018
In the Allahabad High Court

Joti Prasad

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision : 09-12-1936

Acts Referred:

Citation : AIR 1937 All 361

Hon'ble Judges : Allsop, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Allsop, J.—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 u/s 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.