VIOLATION OF RIGHT TO WAY, RIGHT TO ACCESS OF LIGHT AND RIGHT TO ACCESS OF AIR AND OTHER EASEMENTARY RIGHTS

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CHAPTER – I

INTRODUCTION

1.1 Definition and essentials

The three topics in the project come within the ambit of Easement rights. An easement is a right which the owner or occupier of a certain land possess, as such for the beneficial enjoyment of that land to do something, or to prevent and continue to prevent something being done, in or upon or in respect of certain other land not his own.

Characteristics essential to an easement

An easement is a privilege, without which the owner of one tenement has a right to enjoy in respect of that tenement in or over the tenement of another person, by reason where of the latter is obliged to suffer or refrain from doing something on his own tenement for the advantage of the former.

The following six characteristics are essential for an easement:

(a) There must be a dominant and survivent tenement
(b) An easement must accommodate the dominant tenement
(c) The rights of easement must be possessed for the beneficial enjoyment of the dominant tenement.
(d) Dominant and survivent owners must be different persons.
(e) The right should entitle the dominant owners to do and continue to do something or to prevent and continue to prevent something being done, in or upon, or in respect of, the survivent tenement; and
(f) The something must be of a certain or well defined character and be capable of forming the subject matter of a grant.

It forms a part of right of way is an affirmative easement – It entitles the owner of a right to do a certain act and to continue to do it, namely pass over the land of the survivent owner. From this point of view it is called a positive easement. But a right of way also prevents the survivent owner from building of his land, or doing any other act in the enjoyment of his

1 Indian Easements Act, 1882.
proprietary rights on the land, which would interfere with the right of way. In fact, every right of easement imposes on the survient owner a restrictive use and enjoyment of his own land by him so that it may not interfere with the enjoyment of the right of easement by the dominant owner. Easements are classified into positive or negative according to the predominating factor of the particular exercised.

1.2 Brief Overview of the Project

This research project deals with three specific easement rights, i.e. Right of Way, Right to access of light, Right to access of light. The researcher starts off by explaining the definition and the essential characteristic of an easement and goes on to deal with the three easements in detail.

1.3 Purpose of Research

The purpose for this research is to basically understand the nature of easements in general, more specifically the three mentioned easements and finally to critically analyse the specific instances related to those provisions.

1.4 Research Plan

The researcher, for the purpose of his research has followed the doctrinal method of research. He has used the resources in the library of National Law University, Delhi and National University of Juridical Sciences, Kolkata and has referred to various books by eminent jurist like Winfield and Halsbury’s laws of England. The researcher has also referred to books by distinguished professors like R.K Bangia, and Ratanlal and Dhirajlal.

1.5 Scheme of Chapterisation

The first chapter deals with giving brief overview of the topic of easement and then defining and explaining its essentials. Further it deals with giving the purpose of research, research purpose and research plan. The second chapter deals with Right to Way as the broad overhead which is further classified into classification of ways, general right to way, etc. Then, the third chapter deals with Right access of Light, which is further classified into nature of easement of light, the Indian law related to it, etc. The fourth chapter deals with Right to access of Air which
is further classified into the Indian perspective relating to the provisions, and the consequences of its infringement.
CHAPTER –II

RIGHT TO WAY

A right of way is a right to pass over the soil of another person uninterruptedly. Rights of way do not fall under the denomination of natural rights. They are discontinuous easement, and may be acquired in the same way as the other easements are acquired.

There are two classes of right of way²

(a) Public rights of way which exist for the benefit of all people. They are called highway. Their origin is in dedication express or implied.

(b) Private rights of way. These are vested in particular individuals or to owners of particular tenements: their origin is grant or prescription or belong to certain classes of persons or certain portions of the public, such as the tenement of a manor, or the inhabitants of a parish or village, their origin is custom.

A right of way may be created by express grant or by immemorial custom, necessity or by prescription, or by statute or through private dedication. Simply because the user of the land without permission of the owner was a criminal, it does not prevent in the acquiring of the right of way by prescription if the user continued for the statutory period.

As to the nature of rights of way, they may be general in character or other words usable for all purposes and at all times or the right to use them may be limited to particular purposes e.g. for sweepers, or to certain times. Thus right to way may be limited to agricultural purposes only- and the existence such a right is not itself sufficient evidence of general right for all purposes- to carry lime or stone from a newly opened quarry, or it may be limited to the purpose of driving cattle, or carriages³ or of the passage of boats, or it may be a horseway or merely a way for foot passengers⁴, or the right of user may be limited to such times as a gate is open,⁵ or to certain hours of the day, or when the crop are off the land. A right of way acquired by prescription for agricultural purposes can be used for other purposes provided that the burden on the servient tenement is not increased by such user. When a right of way is granted by conveyance for access

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² Chunni Lall v. Ram Kishen Sahu, (1888) ILR 15 Cal 460.
⁵ Raghupati v. Bapuji, (1874) PJ 3
and use of a particular land, it cannot be extended and utilized for cultivation of another adjoining land.

2.1 Public right of way

Public right of way exists over highways or navigable rivers. A highway is a road over which the public at large possess a right of way. The highway may cover not merely the metalled portion but also the side lands. A public highway may lead from one place to another. The public have right to free use any portion of the highway. The ownership of the highway is with the owners of the land adjoining the highway,\textsuperscript{6} but by a statute the ownership is vested in municipal bodies. The vesting of the highway or a public street in a municipality in only for management and maintenance: the vesting of a highway or a street also includes so much of the soil below ad of the space above the surface as is necessary to enable it to adequately maintain the highway or the street.\textsuperscript{7} Every person who occupies land adjoining a highway has a private right of access to the highway from his land and vice versa. The right to access is different from the right of passage over it. The former is a private right\textsuperscript{8} and the latter is a public right. The right over a public highway cannot be limited to any class or section of the public. An attempt to dedicate a highway to a limited portion of public is no dedication at all. The right to use a thoroughfare should be in a reasonable manner without any wanton disregard of the legal rights of others or a riotous demonstration to provoke animosities.\textsuperscript{9} But the subject to control of appropriate authorities and public order, a citizen has a right to take processions through a public street,\textsuperscript{10} and even to hold a public meeting at a proper time and place on such a street.\textsuperscript{11} Any wrongful interference with a right of way constitutes a nuisance.

\textsuperscript{6} Emperor v. Vadilal Devchand, (1931) 33 Bom LR 663.
\textsuperscript{7} Municipal Board, Mangalore v. Mahadeo Maharaj, AIR 1965 SC 1147.
\textsuperscript{8} Hanuman Prasad v. Raghunath Prasad, (1924) ILR 46 All 573.
\textsuperscript{9} Muhammad Jalil Khan v. Ram Nath Katau, (1930) ILR 53 All 484.
\textsuperscript{10} Manzur Hasan v. Muhamad Zaman, AIR 1925 PC 36.
\textsuperscript{11} Himmatlal v. Police Commissioner, Ahmedabad, AIR 1973 SC 87.
2.2 Classification of ways

The classification of private rights of way which was formerly regarded as of importance is now of no practical utility. There are no exact categories under one or other of which every private right of way must fall, as was formerly supposed. The nature and extent of the right depends upon all the circumstances of each particular case, and the former rigid classification no longer suit the various kinds of ways as they are now regarded by the law.

2.3 General right of way

The distinction between general and limited rights of way is still of some importance. The term “general right of way” is applied to private rights of way upon which there are no restriction other than the necessary qualifications which nature or the law requires with regard to all private rights of way. The term is misleading in that it is more applicable to a public highway for all kinds of traffic than to private right of way, which is necessarily qualified by law in several respects, for all private right of way, no matter how general they may be, can only be used by the owners and occupiers of the dominant tenement and their licensees, and only for the purpose connected with the dominant tenement. Also in the great majority of cases, they may only be used for the purpose of the dominant tenement as that tenement existed at the time of the creation of the easement. In this respect the scope of an easement may be wider on the construction of an express grant creating it than measured by the actual user where it arises by prescription.

The true significance of the term “general right of way” lies in its use in contradistinction to the special limitations expressed or inferred upon the user of any particular right of way over and above the limitations thus imposed by general law. Thus, special limitation may be placed upon the user in respect of time; for instance, the user may be limited to certain times in the day, to certain seasons or periods or to the duration of the purposes for which it was

12 Coke says there are three kinds of ways “in our ancient books. First, a footway, which is called iter, the second is a footway and a horseway, which is called actus ab agendo, the third is via or aditus, which contains the other two and also a cart, etc. A carriageway includes a footway: Davies v. Stephens (1836) 7 C & P 570.
13 Ballard v. Dyson (1808) I Taunt 279 at 284.
14 United Land Co v. Great Eastern Railway Co. (1875) 10 Ch App 586 at 590.
15 Highways may be limited to particular kinds of traffic.
16 Finch v. Great Western Railway Co (1879) 5 Ex D 254.
17 United Land Co. v. Great Eastern Railway Co (1875) 10 Ch D 586.
18 Collins v. Slade (1874) 23 WR 199. Here Right of way was created which was only to be used in the sunlight.
created. It may be limited also in respect of the part of the area of the servient tenement over which it may be exercised. Another and the most common form of limitation is in respect of the mode in which the way may be used, that is to say, in respect of the nature of the traffic. In this respect it may be limited to foot passengers to motor traffic, to carriers and wheeled traffic, excluding cattle and other animals, to agriculture traffic, to men driving cattle and other animals, or to traffic of some other particular nature. The user of the way may be limited in respect of its special purposes or of the persons who are entitled to use it.

2.4 Persons entitled to use right of way

Apart from statute, the determination of the question who may use a right of way depends upon the nature and extent of the right. If the right is created by grant, the persons or classes or persons entitled to use it may be expressly limited by the terms of the instrument, a grant of this kind being construed, not strictly, but in accordance with the apparent intention of the parties.

As a general rule the persons or classes of persons who may use the right must be ascertained by construing the instrument having regard to the general circumstances surrounding the exception of the grant. The most important of these circumstances are the nature of the place over which the right is granted, and the nature of the dominant tenement, and the purposes for which that tenement is, in the contemplation of the parties, intended to be used. In the ordinary case of a grant of a right of way to a house which may only be used as a private dwelling house, the way be used by, and the right extends to the grantee, and to members of his family, visitors, guests, employees and the trades people, even though none of these persons is expressly mentioned in the grant. The owner of the dominant tenement may use a right of way to it, even though he is not in possession, for the purpose of viewing waste, demanding rent, removing, an obstruction or other similar purposes.

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19 Cannon v. Villars (1878) 8 Ch D 415 at 420 and 421.
20 Thornton v. Little (1907) 97 LT 24, where a grant of a right of way to the owner if the dominant tenement for her “tenents, visitors and servants” was held a right of way for her pupils, the dominant tenement being a school at the time of the grant.
21 Hammond v. Prentice Bros Ltd (1920) 1 Ch 201: grant of right of way not limited to class of persons named, but included their licensees.
2.5 Disturbances of Right of Way

Any wrongful interference with a right of way constitutes a nuisance. As, however, a right of way never entitles the grantee, or those lawfully using the way under the grant, to the exclusive use of land over which the way exists, not every obstruction if the way amounts to an unlawful interference, and no action will lie unless there is a substantial interference with the easement granted. The effect of a grant of a right of way differs in this respect from a grant of the soil of the way, for in the latter case the slightest interference is a trespass.

The question whether any particular interruption amounts to an unlawful interference depends upon the nature of the right of way and of the place, and upon the circumstances of the case. Any disturbances of a way is unlawful which renders the way unfit for the purpose for which it was granted, to the injury of the person entitled to the way. Thus, there would be an unlawful interference if the way is so damaged by vehicular or other traffic that the grantee is unable to use it; or if the way is either wholly or partially obstructed by being built upon; or if the servient tenement is ploughed up so that the way cannot be used. The nature of the remedy is the same whether the way was created by express grant or by way of reservation, or is claimed under the doctrine of prescription.

2.6 Remedies

The person entitled to a right of way may sue for an injunction to restrain obstruction of the way or for damages. If he in fact suffers no damage by the obstruction, nominal damages will be awarded only, and an injunction will be refused.

A person who in purported exercise of a right of way makes an excessive user of the servient tenement commits a trespass and may be restrained from doing at the instance of the servient owner. What amount to excessive user depends on the scope of the right according to the true construction of an express grant or according to the user established by the prescription as the case may be. A trespass committed in the manner described, however, gives no cause of payment of damages.

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22 Thrope v. Brumfitt (1873) 8 Ch App 650.
23 Ibid: Suppose one person leaves a wheel-barrow standing on a way, that may cause no appreciable inconvenience, but if a hundred do so, that may cause a serious inconvenience, which a person entitled to the use of the way has a right to prevent.
24 Robertson v. Adams (1930) 69 L.Jo 301: the defendants, who were owners of an arcade over which the plaintiff had a right of way, placed stalls and tables along the width and in the centre of the arcade. This was held to be a substantial interference with the plaintiff’s right and damages were awarded and an injunction was granted.
25 Milner’s Safe Co Ltd v. Great Northern and City Railway Co. (1907) 1 Ch 208 at 228.
action to persons who are not entitled to use the way and are not interested in the servients tenement, nor can the dominant owner claim for the physical damage to the way unless this substantially interferes with his right to use it.

A person interested only in reversion or remainder in the dominant tenement cannot sue for the protection of the right of way unless the obstruction is of such a nature that it either permanently injures the estate or operates as a denial of right.\textsuperscript{26}

A person interested in reversion or remainder in the servient tenement cannot sue for trespass done under an alleged right of way, because acts of this nature cannot operate as evidence of right against a person who has no present remedy by which he can obtain redress\textsuperscript{27}.

\textsuperscript{26} Hopwood v. Schofield (1837) 2 Mood and R 34.
\textsuperscript{27} Baxter v. Taylor (1832) 4 B and Ad 72.
CHAPTER – III

RIGHT TO ACCESS OF LIGHT

At common law the owner of land has no right to light. Anyone may build up his own land regardless of the fact that his doing so involves an interference with the light which would otherwise reach the land and building of another person. The right of light is acquired as an easement in augmentation of the ordinary rights incident to the ownership and enjoyment of land.

The right to light is nothing more or less than the right to prevent the owner or occupier of an adjoining tenement from building or placing on his own land anything which has the effect of illegally obstructing or obscuring the light of the dominant tenement. It is in truth no more than a right to be protected against a particular form of nuisance, and an action for the obstruction of light which has in fact been used and enjoyed for twenty years without interrupting or written consent cannot be sustained unless the obstruction amounts to an actionable nuisance.

An owner of ancient light is entitled to sufficient light, according to the ordinary notions of mankind, for the comfortable use and enjoyment of his house as a dwelling-house, if it is a dwelling, or for the beneficial use and occupation of the house, if it is a warehouse, a shop, or other place of business.

The right of light is an easement and may be acquired-

(a) By grant or covenant, express or implied

(b) By prescription under the Prescription Act in England, and the Indian Easement Act in India. These acts necessitate an enjoyment without interruption for a period of twenty years to confer the right. But the dominant owner does not by his easement obtain a right to all the light he has enjoyed. He obtains a right to so much of it as will suffice for the ordinary purposes of inhabitancy or business according to the ordinary notions of mankind, having regard to the locality and surroundings.

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1 Independently of an easement right, the right to receive light across another's land is not a natural incident of property. Unless and until such a right of easement has been acquired no amount or mode of obstruction is actionable: Rashid Allidina v. Jivan Das Khemji, ILR (1942) 1 Cal 488
2 Devidas v. Birsingh, ILR 1945 Nag 948.
3 Corbett v. Jones, (1892) 3 Ch 137
to a room in a residential house is not to be measured by the use of which has been put in
the past

(c) By reservation on the sale of the servient tenement. If a vendor of land desires to reserve
any right in the nature of easement for the benefit of his adjacent land which he is not
parting with, he must do it by express words in the deed of conveyance, except in the
case of easement of necessity.

3.1 Nature of Easement of light

The easement of light is a negative easement or a species of negative easement. It is a
right acquired in augmentation of the ordinary rights incident to the ownership and enjoyment of
land, and may be defined as a right which a person may acquire, as the owner or occupier of a
building with windows or apertures, to prevent the owner or occupier of an adjoining piece of
land from a building or placing upon the latter’s land anything which has the effect of “illegally”
obstructing or obscuring the light coming to the building of the owner of the easement.

The easement of light used frequently to be spoken of as the easement of “light and air”,
as though the right to light and the right of air were inseparably connected. They are however,
wholly distinct, and although orders for the protection of light once included the protection of air
as well, this practice has long since been abandoned.

3.2 Extent of easement of light

The easement of light does not consist of a right to have a continuance of all the light
which has previously come to the window of the dominant tenement. The test whether the
interference complained of amounts to a nuisance is not whether the diminution is enough
materially to lessen the amount of light previously enjoyed, nor is it entirely a question of how
much light is left, without regard to what there was before, but whether the diminution (i.e.
difference between the light before and the light after the obstruction) is such a really makes the
building to a sensible degree less fit than it was before for the purposes of business or

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5 Rowbotham v. Wilson (1857) 8 E and B 123 at 147.
7 Baxter v. Bower (1875) 44 LJ Ch 625 at 628.
8 Fishmongers Co. v. East India Co. (1752) 1 Dick 163.
occupation according to the ordinary requirements of mankind. The amount of light is sufficient according to the ordinary notions of mankind increases as standards increase.

What the dominant owner is bound to show in order to maintain an action is that the interference is such an obstruction of light as to interfere with the ordinary occupations of life. In other words, the nature and extent of the right is to have that amount of light through the window of the dominant house which is sufficient, according to the ordinary notions of mankind, for the comfortable use and enjoyment of the house as a dwelling house, if it is a dwelling house, or for the beneficial use and occupation of the building if it is a warehouse, shop or other place of business.

The rule that the easement of light does not give to the dominant owner a right to all the light coming to the window of the dominant tenement applies whether the easement is based upon the doctrine of prescription at common law or is claimed under the provisions of the Prescription Act 1832. A nuisance is however committed by interference of light coming to the dominant tenement if it results in a substantial privation of light sufficient to render the occupation of the house uncomfortable and to prevent the owner from carrying on his accustomed business as beneficially as he formerly did.

### 3.3 Indian Law

No damage is substantial unless it materially diminishes the value of the dominant heritage, or interferes materially with physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit. In considering the sufficiency of light, the light coming from other quarters should be considered. The extent of a prescriptive right to the passage of light and air though a certain window is provided for by s. 28(c) of the Indian Easements Act. An easement of light to a window only gives a right to have buildings that obstruct it removed so as to allow the access of sufficient light to the window. In cases not governed by the Easements Act the principle laid down in Bagam’s case will apply viz., ‘The only amount of light which can be claimed by prescription or by length of enjoyment, without an actual grant, is such an

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9 Colls v Home and Colonial Stores Ltd (1904) AC 179 at 210.
10 Clarke v. Clark (1865) 1 Ch App 16 at 20.
11 Back v. Stacy (1826) 2 C and P 465 at 466.
13 Bala v. Maharu, (1895) ILR 20 Bom 788.
amount as is reasonably necessary for the convenient and comfortable habitation of the house, but the test is whether the obstruction complained of is a nuisance.

In cases of light, “Court ought not to interfere by way of injunction when obstruction of light is very slight and where the injury sustained is trifling, except in rare and exceptional cases and where ‘the defendant is doing an act which will render the plaintiff’s property absolutely useless to him unless it is stopped in such a case, inasmuch as the only compensation, which could be given to the plaintiff, would be to compel the defendant to purchase his property out and out, the court will not in the exercise of its discretion compel the plaintiff to sell his property to the defendants by refusing to grant him an injunction and awarding him damages on that basis. Between these two extremes, where the injury to the plaintiff would be serious where the court considers the property may still remain with the plaintiff and be substantially useful to him as it was before and where the injury is of one of a nature that can be compensated by money, the Courts are vested with a discretion to withhold or grant an injunction, having regard to all the circumstances of the particular case before them. In India the Court has a discretion: It may, not shall, issue an injunction where the injury is such that pecuniary compensation would not afford adequate relief.

In some cases a mandatory injunction will also be granted. Court will grant such injunction where a man, who has a right to light and air which is obstructed by his neighbour’s building, brings his suit and applies for an injunction as soon as he can after the commencement of the building, or after it has become apparent that the intended building will interfere with his light and air. But the court should be satisfied that a substantial loss of comfort has been caused and not a mere fanciful or visionary loss.

If plaintiff has not brought his suit or applied for an injunction at the earliest opportunity, and has waited till the building has been finished, and then asks the Court to have it removed, a mandatory injunction will not generally be granted.

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16 Jamnadas v. Atmaram (1877) ILR 2 Bom 133.
18 Isenberg v. The East I.H.E Co., (1863) 3 De GJ and S 263.
CHAPTER – IV
RIGHT TO ACCESS OF AIR

An owner or occupier of land or building has no natural right to free passage air to his
 tenement over adjoining open land. He has no natural right to prevent his neighbor from using
his land in such a way as to obstruct that free passage air. A right to the general passage of air not
flowing in any defined channel may be the subject of express grant but is not capable of being
claimed as as easement by prescription, or by a lost grant. Thus no action will lie for the
obstruction the passage of wind to an old mill,¹ or chimney.² But a right to air through a
particular aperture in a house or building on the dominant tenement can be acquitted by
prescription as an easement or by express grant.

By implication of law, and it may be acquired by prescription³ and under the doctrine of a
lost modern grant. There would appear to be no reason why it should not be an easement within
the meaning of the Prescription Act 1832 and be capable of being acquired by prescription under
the provisions of that Act⁴.

A right to the general passage of air not flowing in any defined channel may be the
subject of express grant or covenant, but is not capable of being claimed either by a prescription
in common law or by grant or under the Prescription Act 1832. Such claim is too vague and
indefinite to be recognized in law.

4.1 Indian Law

Access and use of air to and for any building may be acquired under the Indian
Easements Act⁵ if it has been peaceably enjoyed without interruption for twenty years. The right
to air is co-extensive with the right light. The owner of house cannot by prescription claim to be
entitled to the full and uninterrupted passage of a current of wind. He can claim no more air than
which is sufficient for sanitary purposes. There is no right as a right to the uninterrupted flow of
south breeze as such.⁶ There is no easement for free access of wind. In this country a man who
has enjoyed a right of air more or less pure and free will is reasonably protected against any

² Bryant v. lefever, (1879) 4 CPD 172.
³ ibid
⁴ ibid
⁵ Act V of 1882, s. 15.
⁶ Delhi and London bank Ltd v. Hem Lall Dutt, (1887) ILR 14 Cal 839.
interference. The conditions here are different from those existing in England, so far as air is concerned. In England more light is needed than here: whereas more air is needed here than England.

4.2 Infringement of the right

The right to the purity of air is not violated unless it interferes materially with the ordinary comfort of human existence. It is only in rare and special cases involving danger to health, or at least something very nearly approaching it, that the Court would be justified interfering on the ground of diminution of air.

But under the Indian law where the easement disturbed is a right to the full passage of air to the opening in a house, damage is substantial if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health. The Calcutta High Court has held that obstruction in cases not governed by Easement Act must be such as to cause what is technically called a nuisance to the house, in other words, to render the house unfit for ordinary purposes of habitation or business.
CHAPTER – V

CONCLUSION

Thus concluding, an easement is a right which the owner of a property has to compel the owner of another property to permit something to be done, or to refrain from doing something on the survient element for the benefit of the dominant tenement. E.g. Right to light, right of way. The property in respect of which an easement is enjoyed is the dominant element, and its owner, dominant owner, and that over which the right is exercised is called the survient tenement, and its owner, a survient owner.

However unlike a lease, an easement does not give the holder a right of "possession" of the property. Thus according to the researcher an easementary right is provided for specific relief from specific violations of common basic rights.

In the case of the right to way, any wrongful interference with the right of way constitutes a nuisance.7 As, however, a right of way never entitles the grantee, or those lawfully using the way under the grant, to the exclusive use of the land over which the way exists8 not every obstruction of the way amounts to an unlawful interference, and no action would lie unless there is a substantial interference with the easement granted.9

In the case of right to access of light, it does not consist of a right to have a continuance of the same amount of light throughout. In case of a diminution, the dominant owner is bound to show that the diminution has interfered with his ordinary occupations of life10 and it results in a nuisance if it is sufficient to render the occupation of the house uncomfortable, and prevent the owner from carrying his business as beneficially as he formerly did.11

In the case of right to access of air, it is co-existence with the right to light. The owner of the house cannot by prescription claim an entitlement of the flow and uninterrupted passage of current of wind, neither is he entitled to right of uninterrupted flow of breeze as such, and he can claim only such amount of air which is sufficient for sanitary purposes. Hence, it is only in rare and special cases involving danger to health cases that the court would justify as interfering with the right to diminution of light under the Indian law under the Indian Easements Act, 1882.

7 Thrope v. Brumfitt (1873) 8 Ch App 650.
8 Strick and Co. Ltd v. City Offices Co. Ltd (1906) 22 TLR 667.
10 Clarke v. Clarke (1865) I Ch App 16 at 20.
11 Wells v. Ody (1836) 7 C and P 410 at 412.
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