Before Mr. Justice Norman and Mr. Justice E. Jackson.

1869 April. 26

BECHARAM CHOWDHRY (ONE OF THE DEFENDANTS) *v.* PUHUBNATH JHA (PLAINTIFF.)*

Use of Water Rights—Injury to Neighbouring Land.

No proprietor can lawfully pen back the water of a stream by erecting a bund upon his own land, so as to inundate the land of his neighbour, without his license and consent.

Baboo *Budh Sen Sing* for appellant.

Baboo *Krishna Sakha Mookerjee* for respondent.

The facts are sufficiently stated in the judgment of

NORMAN, J.—In this case the defendant erected a bund across a stream, the effect of which has been to throw back the water of the stream upon the land of the plaintiff, and destroyed his crops. The lower Appellate Court has given the plaintiff a decree for the amount of injury which he sustained. There is no doubt that the decision of the lower Appellate Court is quite correct. The rule, regulating the enjoyment of water flowing in its natural course, is that no proprietor can lawfully pen back the water by erecting a bund upon his own land, so as to inundate the land of his neighbour without the license or consent of that neighbour. The rule is clearly stated in page 334 of the third edition of Broom's Legal Maxims, under the maxim "*sic utere tuo ut alienum non lœdas*," in other words, every man must enjoy his own property in such a manner as not to injure that of any other person.

The Appeal is dismissed with costs.

Before Mr. Justice Bayley and Mr. Justice Hobhouse.

1869 April. 28.

RANI SARAT SUNDARI DEBI AND ANOTHER (PLAINTIFFS) *v.* SURJA KANT ACHARJI CHOWDHRY AND OTHERS (DEFENDATS.)†

Plaint—Cause of Action—Multifariousness.

When a plaint discloses different causes of action against different parties it is bad in law, and the suit is not maintainable.

THIS was a suit for confirmation of right, and possession of about 350 khadals of land within the boundaries mentioned in the plaint, being contiguous accretions to the village of Subarnakhali within Pergunna Pakurea Jainshahi,

* Special Appeal, No. 2378 of 1868, from a decree of the Subordinate Judge of Zilla Purneah, dated the 8th of June 1868, modifying a decree of the Moonsiff of Arraria in that district, dated the 6th of February 1868.

† Regular Appeal, No. 250 of 1868, from a decree of the Subordinate Judge of Mymensingh, dated the 20th August 1868.