Aitchison v India Tyre & Rubber Co.

Obstruction of rights of way · https://scotways.com/ken/aitchison-v-india-tyre-rubber-co/

Case Report: 1950 CLY 4878

Key points: Gates athwart right of way - shared access to dwelling house and factory - obstruction apparent not real - requirement to alter aspect of gates.

The facts: This is a very brief report concerning the erection of gates by a factory owner across a path used as a private access to a dwelling-house where it was proved that the gates were necessary for the proper conduct of the factory owner's business. The gates, although high and forbidding and without evident means of being opened, were never locked, and employees of the factory were in constant attendance.

It was held that although the proprietor of the dwelling-house was not being put to material inconvenience and was not entitled to have the gates removed, the gates should, however, be altered ''to look as if they were meant to be opened''.

Comments: This case is not fully reported, but in any event adds little to the principles enunciated in earlier cases.