

Trespass and destroying pepper vine on the plaintiffs



Trespass is a forcible entry on the land of another with strong hand and against the will of the owner. The term 'trespass' in Section 297, Penal Code, appears to mean any violence or injurious act committed in such place and with such knowledge or intention as is defined in that section. As per Section 441 IPC of IPC, 'trespass' is doing of unlawful act or of lawful act in unlawful manner to the injury of another's person or property or any violation or transgression of the law; passing beyond some limit, an encroachment, intrusion on or upon. 'Trespass' signifies a passing over or beyond right, i. e. a transgression or wrongful act. The applicability of Art. 87 is restricted only to suits for damages on account of trespass and not to suits to recover immovable property from a trespasser for which the plaintiff has the right to recover such possession of the immovable property from the trespasser.

In *Moideen v. Koman Nair*, (23 MLJ 618), it has been held that trespass includes the mischief which a trespasser commits after entering upon the land and, therefore, a suit for damages for unlawfully setting fire to and destroying pepper vine on the plaintiffs land is governed by the Art. 87. A trespass being an infringement of right of property cause of action arises immediately on the date of trespass. The expression 'the date of trespass' in Art. 87 is not restricted to the date on which the trespass commences.

It includes every date on which trespass continues and a suit for compensation can, therefore, be filed at any time during the continuance of trespass. Compensation can only be claimed for a period of three years prior to the filing of the suit when the trespass is continuing.