

In owners of property  
to run away from



**ASSIGN  
BUSTER**

In deciding whether harm to property committed by an offender is immediate or not, the Court should not expect the owners of property to run away from their property and seek the protection of authority. A person in rightful possession of property is entitled to maintain that possession even by the use of force if by such use of force he can effectively defend his property. A true owner has every right to dispossess or throw out a trespasser when the trespasser is in the act or process of trespassing and has not accomplished his possession, but this right is not available to the true owner if the trespasser has been successful in accomplishing his possession to the knowledge of the true owner. In such circumstances the law requires that the true owner should dispossess the trespasser by taking recourse to the remedies available under the law.

It may not be possible to lay down a rule of universal application as to when the possession of a trespasser becomes complete and accomplished. One of the tests may be to find out who had grown the crop on the land in dispute. The accused were in continuous and cultivating possession of a field. The complainant party went to the field with a view to plough and sow it wrongfully. When they began to do the operations the accused came there duly armed and asked the complainant party to desist from ploughing. But as they refused to obey one of the accused gave a light axe blow to a member of the complainant's party.

It was held that the accused were entitled to resist dispossession and use force short of grievous hurt or death. The action of the accused in the circumstances resulting in a minor injury being caused was definitely protected by the right of the private defence of property. Imminent danger to

property —No duty to seek protection of public authorities. — When the villagers had trespassed into appellant's land, appellant had an immediate right to resist as there had been actual danger to the property by the time he came to know about it. In the circumstances there was no duty cast on him to retreat and to seek protection of the public authorities. When he came to know that the villagers had trespassed into his land and tried to construct a house, he was entitled to come to the spot with necessary force to repel the entry and turn away the aggressors. He was entitled to raise his own arm in defence and retaliate to keep away the attack without applying for State aid. He had the right to exercise his right of private defence.

It was argued that as the portion in which the cattle were grazing was bona fide believed by the accused to be his, had the right to resist interruption by the complainant. It was held that even if there was some misunderstanding about the extent of the respective portion, the dispute could have been settled through the Civil Court; the accused could not himself take the decision about his rights and take the law into his hands. Claim of a right to property is not enough to give any person the right to cause injury to another claimant.

In such a case the right to defend cannot include the right to offend. Every drop of human blood is more precious than an acre of land. The accused could not for enforcing his claim to property strike a spear blow on the abdomen of his rival.