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CRR 1610 of 2026

Arun Kumar Pan
Vs.
The State of West Bengal & Anr.

Mr. Kartik Das

...for the Petitioner

The dispute herein concerns over a pathway obstruction due to reason of construction of a boundary wall where the opposite party claims easement rights. Learned court below while invoking jurisdiction, has passed an order directing the petitioner herein to remove the boundary wall from the pathway of the opposite party situated over the disputed land and also directed the I.C, Bankura Police Station to ensure that in terms of the order of removal of the obstruction, such process is completed within the stipulated time, without fail.

Being aggrieved by the aforesaid order, learned counsel for the petitioner submits that a civil suit is pending over the self-same issue. The opposite party no. 2 never submitted any document wherefrom it can be ascertained that he has/had any exclusive right of usage over the said pathway in question.

Learned court below ought to have rejected the prayer of the opposite party no. 2 as because there cannot be any easement right allegedly acquired by the opposite party herein within a demarcated area which has been bounded by the boundaries and the building has been constructed after obtaining sanctioned plan from the municipality. The court below also failed to consider the record of rights in the name

of the present petitioner in respect of the disputed land and has also failed to appreciate the true ambit of Section 147 of the Code of Criminal Procedure, by which it should have considered that the initiation of the Title Suit no. 35 of 2017 along with a prayer for specific relief is pending over the self-same issue. Therefore, the impugned order is not sustainable in the eye of law.

Having heard learned counsel for the petitioner, the application is admitted.

Petitioner is directed to serve a copy of the application upon the State through the office of Public Prosecutor, High Court, Calcutta and upon the opposite party no. 2 by speed post intimating the next date of hearing and to file affidavit of service to that effect on the returnable date.

Let the matter appear four weeks hence.

Learned counsel for the petitioner also prays for stay of the execution of the impugned order dated 30th March, 2025.

Having heard learned counsel for the petitioner and that the petitioner has also made out an arguable case which requires adjudication on merit, let the execution of the impugned order dated 30th March, 2025 be hereby stayed for a period of six weeks or until further order, whichever is earlier.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)