

25.02.2026
Court No. 06
Item No. 28
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 4417 of 2025

**Sri Nikhil Chandra Huzzat @ Nikhil
Huzzat
-Versus-**

Sri Basudeb Das & Ors.

Mr. Amit Baran Dash,
Ms. Ankana Sarkar
.....for the petitioner

- 1) The petitioner filed an application under Order 16 Rule 10(3) of the Code of Civil Procedure for an order directing the Superintendent of Police, Purba Medinipur to attach the records of LA Case No. 84 of 1965-66. It was stated that, the summoned witnesses, that is, P.W. 3 and P.W. 4 who were the representatives of the office of the Collector, Purba Medinipur, had withheld those records.
- 2) The learned Court rejected the said application on that the ground that evidence had already been adduced on behalf of the plaintiff and his documents had been marked exhibits. The Court was of the further view that the documents of the L.A. case were not relevant and as such necessary orders under Order 16 Rule 10 (3) of the Code of Civil Procedure could not be granted.
- 3) The provisions is quoted below :

“10(3) In lieu of or at the time of issuing such proclamation, or at any time afterwards, the Court may, in its discretion, issue a warrant, either with or without bail, for the arrest of such person, and may make an order for the attachment of his property to such amount as it thinks fit, not exceeding the amount of the costs of attachment and of any fine which may be imposed under rule 12:

Provided that no Court of Small Causes shall make an order for the attachment of immovable property.”

4) The petitioner filed a suit for declaration that, the petitioner had free ingress and egress over a particular pathway. Thus, the suit is primarily for a right of easement over the alleged land. Easement is an equitable right. Easementary right must be certain, continuous and apparent. If it lacks certainty or visibility it cannot be a right. Easement over the alleged government land can be claimed if there is explicit permission or long established usage. Both these situations will have to be proved by the plaintiff. The summoned witnesses PW3 and PW although could not produce the L.A. case records, they produced the sketch map of the Mouza before the Court, which was signed by the Land Acquisition Collector. They have not intentionally withheld the documents. The petitioner has to prove his right of easement by adducing evidence. The court rightly held that, the records of the L.A. Case for the year 1965-66, would not have any relevance in the adjudication of the issue involved. The plaintiff case is that, Schedule 'Ka' property is a tar paved road which was being used by the

petitioner and other villagers. The petitioner's house is adjacent to such road. It is further stated that the said road has been built on the land belonging to the Irrigation and Waterways Department. The LA Collector, the concerned BL&LRO, The Irrigation and Waterways Department are defendants in the suit. I do not find any illegality in the order impugned. The revisional application fails and is accordingly disposed of.

5) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)