

BasaruddIn Bhuiah Vs. Baha Rali

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SooperKanoon Citation : sooperkanoon.com/868184

Court : Kolkata

Decided On : Oct-11-1884

Reported in : (1885)ILR11Cal8

Judge : Wilson and ;Macpherson, JJ.

Appellant : BasaruddIn Bhuiah

Respondent : Baha Rali

Judgement :

ORDER

Wilson, J.

1. We think the order of the Deputy Magistrate cannot be supported. It has been more' than once held by this Court that the powers now embodied in Sections 133 to 137, with regard to the obstruction of public ways, are not to be exercised where there is a bond fide dispute as to the existence of the public right. In the present case it is plain that the right of way is really in dispute, and that its existence is at least open to doubt. No order, therefore, can be made under the sections referred to, until the public right has been established by proper legal proceedings, civil or criminal.