

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.302 of 2019

Arising Out of PS. Case No.- Year- Thana- District-

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Shambhu Sharan Das, son of Late Ram Narain Sharma Resident of Village -
Ojha Tola, P.S.-Kotwa, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector of District-East Champaran.
3. The Sub-Divisional Magistrate, Motihari Sadar, East Champaran.
4. The Circle Officer, Block-Kotwa, District-East Champaran
5. Rameshwar Sharma, Son of Late Rudal Rai
6. Brij Bihari Sharma Son of Ramjuran Sharma
7. Phuldeo Sharma
8. Kodo Sharma
9. Ram Sewak Sharma
10. Shambhu Rai, Son of Late Amar Rai
11. Lal Bahadur Sharma
12. Jang Bahadur Sharma
13. Vijay Kumar Sharma

All sons of Ramnath Sharma.

14. Narendra Sharma, Wife of Rameshwar Sharma

All residents of Village - Ojha Tola, P.S.-Kotwa, District-East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Tiwari, Advocate
For the Respondent/s : Mr. Rishi Raj Sinha, SC-19

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 05-02-2019

Heard learned counsel for the petitioner and

learned counsel for the State.

2. This writ petition has been filed by the petitioner



for directing the respondent no.4 to pass an order in Case No.529 of 2005 instituted under Section 133 of the Code of Criminal Procedure for removing the encroachment over public land appertaining to Plot No.532 and 533 of Kati No.517 of Mauza-Ojha Tola, Kotwa, East Champaran.

3. Learned counsel for the petitioner submitted that respondent nos.5 to 14 have encroached the land and are disturbing the public in general from cremating the bodies. He contended that though a case under Section 133 of the Code of Criminal Procedure was instituted in 2005, no action has been taken so far.

4. On query made by the Court regarding the entire order-sheet of Case No.529 of 2005, learned counsel for the petitioner submitted that the same has not been brought on record.

5. In absence of the order-sheet, it is impossible for this Court to come to any conclusion as to whether the Sub Divisional Magistrate, who has initiated the proceeding under Section 133 of the Code of Criminal Procedure has committed any irregularity in the proceeding initiated by him.

6. In view of the vague nature of the pleading and the withholdment of the order-sheet of the learned Sub



Divisional Magistrate, I am not inclined to entertain this writ petition under extraordinary writ jurisdiction.

7. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.02.2019
Transmission Date	NA

