

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31477 of 2021

Arising Out of PS. Case No.- Year-0 Thana- District- Samastipur

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1. Lal Bahadur Singh S/O Late Harivansh Narayan Singh Resident Of Mohalla - Barah Patthar Ward No. -14, P.S. - Samastipur Town, Distt.- Samastipur.
 2. Suraj Vats S/O- Lal Bahadur Singh Resident Of Mohalla - Barah Patthar Ward No. -14, P.S. - Samastipur Town, Distt.- Samastipur.
 3. Shantanu Kumar S/O- Lal Bahadur Singh Resident Of Mohalla - Barah Patthar Ward No. -14, P.S. - Samastipur Town, Distt.- Samastipur.

... .. Petitioners

Versus

1. The State of Bihar
2. The Distt. Magistrate Samastipur. Bihar
3. The Sub Divisional Magistrate Samastipur. Bihar
4. Satish Kumar Singh S/O- Sri Ranjeet Prasad Singh Resident of Village - Barah Patthar Ward No. - 4, P.S. - Samastipur Town, Distt.- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr.Mukesh Kumar No1, Advocate
For the State	:	Mr.Bhanu Pratap Singh, Addl Public Prosecutor
for opposite party no.4	:	Mr. Patanjali Rishi, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 12-02-2024 This application has been filed for quashing of the order dated 23.02.2021 passed in M.R. No.-1336/2021 (Satish Kumar Singh v/s Lal Bahadur Singh & ors) passed by the Sub-Divisional Magistrate, Samastipur, whereby the petitioners were directed to file show cause as to why the proceeding under section 133 of the Cr. P.C. will not be confirmed, with respect to the land bearing Khata No.- 49, Kheshra No.- 611, Mauza -Barah Patthar.

2. Learned counsel for respondent no.4 has filed



counter affidavit. He submits that the land in question was purchased by the common ancestor of both the parties. However, with efflux of time, by mutual agreement, said land has been put to public use for right to passage but presently petitioners are trying to make encroachment over the said land. Petitioners rather than filing show cause, they have approached this Court. He submits that since usage of the land is being made by general public, hence proceedings under section 133 Cr.P.C. is maintainable.

3. Heard learned counsel for the parties and perused the materials on record.

4. Section 133 Cr.P.C. proceedings is initiated to address public nuisance that affect the community at large, such as obstructing public roads or creating unsanitary conditions. The purpose of such proceedings is to protect public health, safety and convenience by addressing the remedying nuisance that impact the general public. The person, who receives the show cause notice, has an opportunity to present his case before the Magistrate and to explain why action should not be taken against him.

5. Merely, issuance of show cause notice under section 133 Cr.P.C. does not give rise to any cause of action. It



does not amount to adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. Issuance of show cause does not infringe the right of a party. It is only when a final order is passed, it may have a grievance or cause of action.

6. This quashing application is dismissed having no merit.

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(Prabhat Kumar Singh, J)

