

(2013) 01 JH CK 0016
In the Jharkhand High Court
Case No : Writ Petition No. 3197 of 2012

Suresh Oraon

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 03-01-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 133

Citation : (2013) 2 AJR 14

Hon'ble Judges : Prakash Tatia, C.J;P.P. Bhatt, J

Bench : Division Bench

Advocate : Anup Kumar Agrawal, for the Appellant; Mokhtar Khan, ASGI and Anoop Kr. Mehta, for the Respondent

Judgement

1. Learned counsel for the respondent-CCL submitted that the respondent, after obtaining the requisite permission from the competent authority, is undertaking the mining operation including mining by blasting within the area which has been given to the respondent for mining operation and, therefore, they are undertaking only lawful activity. The issue is not as has been stated by the respondent. The issue is that whether the respondent, after obtaining the requisite permission, is performing the mining operation within its own boundaries, is causing any loss to the property of the public for which the petitioner has placed on record some of the photographs which, if are true, may indicate that the mining operation is causing damage to the property and endangers the life of the residents of the nearby area and in that situation, certainly there is a cause of action for moving the High Court irrespective of the fact that one application u/s 133, Cr. P.C. has already been filed, which fact has also been mentioned by the writ petitioner in the writ petition.

2. Learned counsel for the C.C.L. sought time to file additional affidavit to answer the grievance raised by the petitioner.

3. Learned counsel for the petitioner further submitted that there was fire in some of the area, where the stock of the coal was dumped by the C.C.L.

However, that fire has been stopped after filing of this petition but the ashes and other coal have not been removed from that area which is causing nuisance for the residents. Learned counsel also submitted that the waste coal has been dumped in the nearby Damodar river.

4. The petitioner has not impleaded the State or the Deputy Commissioner as party in this petition, however, we direct the Deputy Commissioner of Chatra district to give a report about the condition of the Damodar river near the C.C.L. area in question.

5. A copy of this order along with copy of writ petition and counter-affidavit may be given to the counsel for the State in two sets so that he may send one set to the Deputy Commissioner, Chatra who may submit his report within four weeks. Put up on 5.2.2012.