

	No.6)	
8.	Amount already paid as compensation	Rs.1,00,000/-
	Total amount of compensation payable to the respondents (Sr.No.7 – Sr. No.8)	Rs.24,78,100/- - Rs. 1,00,000/- = Rs.23,78,000/-

21. In view thereof, present petition is *dismissed* with direction to the petitioners/corporation to pay the total amount of compensation of Rs.23,78,000/- alongwith interest at the rate of 9% per annum from the date of claim up to the actual payment/realization.

22. A further cost of Rs.50,000/- is imposed upon the petitioners/corporation for denying the poor person of the legitimate compensation.

23. The petitioners/corporation shall deposit the aforesaid amount awarded alongwith cost within a period of three months from today before the Permanent Lok Adalat which shall be paid to the claimants by the Permanent Lok Adalat in accordance with law.

24. Let a copy of this order be sent to the Chairman of the petitioners/corporation to ensure that this kind of frivolous litigation is not filed in the future.

(2025) 5 ILRA 1632
ORIGINAL JURISDICTION
CRIMINAL SIDE
DATED: ALLAHABAD 14.05.2025

BEFORE

THE HON'BLE NALIN KUMAR SRIVASTAVA, J.

Application U/S 529 BNSS No. 285 of 2025

Sudha Shukla ...Applicant
Versus
State of U.P. & Ors. ...Opposite Parties

Counsel for the Applicant:
 Brij Bhushan Prasad Srivastava

Counsel for the Opposite Parties:
 G.A.

Criminal Law-The Code of Criminal Procedure,1973-Sections 483 & 145-(The Bharatiya Nagarik Suraksha Sanhita,2023-Section 529--- The High Court is empowered to exercise its superintendence over the Court of Judicial Magistrates subordinate to it to ensure the expeditious and proper disposal of the cases by such Magistrate but when an order is passed by an Executive Magistrate or any direction is required to be issued for expeditious and proper disposal of a case which is pending before the Executive Magistrate, the High Court can't exercise its superintendence over the courts of Executive Magistrates--- The High Court under Sec. 529 BNSS(Section 483 Cr.P.C.) is not required to make any superintendence over the working of a Executive Magistrate and no direction under Section 483 Cr.P.C. (Section 529 of BNSS) can be issued to the Executive Magistrates where a case under Section 145 Cr.P.C. is pending before it as prescribed in Section 483 Cr.P.C.(Section 529 of BNSS).

Application rejected. (E-15)

List of the cases referred:-

1. Dutch Ophthalmic Research Centre International B.VS Vs Ultramad Pvt. Ltd. & ors. 1997 SCC Online Raj 941
2. Sarjoo & anr. Vs Babadin & anr.1975 CRLJ 1562 (Allahabad)

(Delivered by Hon'ble Nalin Kumar Srivastava, J.)

1. The present application has been moved under Section 529 BNSS seeking direction to the court of Additional S.D.M., Deoria to decide the Case No. 36 of 20008/2009, under Section 145 Cr.P.C., Police Station- Gauri Bazar, District-Deoria pending in the said Court expeditiously within stipulated period of time.

2. Heard learned counsel for the applicant as well as learned A.G.A. for the State.

3. The factual matrix of the present matter is that a property dispute arose between the applicant and O.P. No. 2 & 3 wherein notice under Section 145(1) was ordered to be issued by the court of SDM, Deoria vide order dated 01/12/2005. The matter was contended by both the sides and after evidence the court heard the matter finally. However, some adverse orders were passed against O.P. No. 3 in the meantime and matter was brought to the Court of District & Sessions Judge, Deoria and proceedings before the SDM court were stayed in 2021. However, the record of the case was sent back to the court of SDM, Deoria on 12/12/2024. The matter was dealt with by the Court of Additional SDM, Deoria but despite the case being critically old the said court has kept the matter pending and it is lingering on unnecessarily.

4. It is submitted by the learned counsel for the applicant that the said case is very old but since the court concerned is avoiding the disposal of the case. The said casual approach of the Court of Additional SDM, Deoria compelled the applicant to take shelter of the High Court praying for a direction to the Court of Additional Sub Divisional Magistrate, Deoria for

expeditious disposal of the case no. 36 of 20008/2009 aforesaid under Section 145 Cr.P.C. (Section 164 BNSS).

5. Learned AGA opposed the prayer.

6. I have considered the submissions and perused the record.

7. Instead of proceeding with the instant matter on its merits this Court has taken notice of the fact that the application has been moved under Section 529 BNSS (Section 483 Cr.P.C.) hence, it would be proper at this stage to have a glance upon the provisions of Section 529 BNSS to find out the entertainability of the present application before this Court. The provisions of Section 529 BNSS, which are corresponding provisions to Sec. 483 of Criminal Procedure Code, 1973 are extracted as herein below:

“Sec.529. Duty of High Court to exercise continuous superintendence over Courts -Every High Court shall so exercise its superintendence over the Courts of Session and Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by the Judges and Magistrates.”

8. Section 483 of Cr.P.C., on the other hand provides that-

“Sec.483. Duty of High Court to exercise continuous superintendence over Courts of Judicial Magistrates. — Every High Court shall so exercise its superintendence over the Courts of Judicial Magistrates subordinate to it as to ensure **that** there is an expeditious and proper disposal of cases by such Magistrates.”

9. The language of the provisions contained in Section 529 BNSS (sec.483 Cr.P.C.) is very clear to ascertain the jurisdiction of this Court to entertain the instant application because it provides that the High Court shall exercise its superintendence over the Courts of Judicial Magistrates and Court of Sessions subordinate to it. Admittedly, the case of applicant for expeditious disposal of which the present application has been moved is pending before the Court of Additional Sub-Divisional Magistrate, Deoria who is an 'Executive Magistrate' and does not fall within the category of 'Judicial Magistrates'.

10. Learned counsel for the applicant very humbly submitted that since the SDM is doing judicial function he may be treated as Judicial Magistrate and this Court may exercise its superintendence over the Courts of SDM as well.

11. The aforesaid plea leads this Court to find out the legal position as to whether the Court of SDM may be termed as a Court of Judicial Magistrate.

12. **Sarjoo and Anr. Vs. Babadin and Anr 1975 CRLJ 1562** (Allahabad) is an authority over the present controversy. The relevant portion of the said judgement is quoted as hereunder:

“The argument based on Section 483 is, however, wholly misconceived. That section says that every High Court shall so exercise its superintendence over the Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by such Magistrate. There is no question of expeditious disposal of any pending matter, as the case already stands decided. With

regard to the exercise of superintendence for the proper disposal of cases, proceeding on the assumption that the supervisory power is both judicial and administrative, it is apparent that it can be exercised only over Judicial Magistrate and not Executive Magistrates. Under Section 6 of the Code, Executive Magistrates constitute a class of criminal Courts different from the class of criminal Courts manned by the Judicial Magistrates. Sections 11 to 15 deal with Judicial Magistrates, while Executive Magistrates have been dealt with by Section 20 to 23. Proceedings under Section 145 lie within the jurisdiction of Executive Magistrates and not judicial Magistrates. The impugned order was passed by an Executive Magistrate and there is thus no supervisory power to correct a mistake committed by such a Magistrate.”

13. The term 'Executive Magistrate' has been defined under Section 20 of Cr.P.C. wherein it has been provided that the state government is empowered to appoint as many persons as it thinks fit to be Executive Magistrates and one of them is appointed to be the District Magistrate and to assist the District Magistrate there are Additional District Magistrates and further the State Government is empowered to place an Executive Magistrate in charge of a Sub-Division and such Magistrates are called Sub-Divisional Magistrate and in some circumstances the State Government may confer the powers of a Executive Magistrates on a Commissioner of Police in a Metropolitan area. The provisions of Sec. 14 of BNSS are analogous to that of contained in Sec. 20 of Cr.P.C.

14. A plain reading of Section 20 Cr.P.C. leaves no iota of doubt that the Sub-Divisional Magistrate who is an

Executive Magistrate and further it has been provided under Section 23 of Cr.P.C.(Section 17 of BNSS) that all the Executive Magistrates, other than the Additional District Magistrate, shall be subordinate to the District Magistrate, and every Executive Magistrate (other than the Sub-Divisional Magistrate) exercising powers in a sub division shall also be subordinate to the Sub-Divisional Magistrate, subject, however to the general control of the District Magistrate. The District Magistrate is empowered to distribute the business amongst the Executive Magistrates subordinate to it. The aforesaid superintendence further clarifies that it is the District Magistrate who is supreme in a district so far as the subordination of other Executive Magistrate is concerned. Now what Section 529 of BNSS emphasises is that the High Court shall have a power of continuous superintendence over the Courts of Session and Courts of Judicial Magistrates subordinate to it. Since undoubtedly the Sub-Divisional Magistrate does not fall within the category of Judicial Magistrate, it is not a duty of the High Court to exercise superintendence over the Courts of Sub-Divisional Magistrate.

15. In Dutch Ophthalmic Research Centre International B.V. Vs. Ultramad Pvt. Ltd. and Ors 1997 SCC Online Raj 941 the Rajasthan High Court has discussed the issue by clarifying and defining the justice delivery system and the relevant part covering the present issue is found in para 7 of the judgement which says that:

“Besides, the High Court and the courts constituted under any law, other than the Cr. P.C., Section 6 classifies the criminal courts into four categories viz. (i)

the court of Sessions (ii) Judicial Magistrate of the First Class and the Metropolitan Magistrates (iii) Judicial Magistrates of the Second Class and (iv) Executive Magistrate. In so far as the High Court is concerned it is not the creature of the Cr. P.C. It is the creature of the Constitution having been conferred the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. (Articles. 214, 215 and 227) of the Constitution of India). In the administration of criminal justice this power of superintendence of the High Court over the courts created by and under the Cr. P.C. is clearly reflected in provisions like 397, 398, 482 and 483 Cr. P.C. That being the position of the High Court in the hierarchy of courts in State Judiciary it may be noted that the doctrine of subordination of the courts seems to be governing the procedural administration of the courts in the administration of criminal justice. Every Metropolitan Magistrate, subject to the general control of the Sessions Judge, is subordinate to the Chief Metropolitan and Chief Metropolitan Magistrate is subordinate to the Sessions Judge (Sec, 19). Similarly, every Judicial Magistrate, subject to the general control of the Sessions Judge, is subordinate to the Chief Judicial Magistrate' and every Chief Judicial Magistrate/Addl. Chief Judicial Magistrate is subordinate” to the Sessions Judge (Sec. 15). The Assistant Sessions Judge is subordinate to the Sessions Judge (Sec. 10). Likewise every Executive Magistrate (other than the Sub-Divisional Magistrate) exercising powers in a sub-division shall be subordinate to the Sub-Divisional Magistrate and every Executive Magistrate, including Sub-Divisional Magistrate but excluding the Addl. Distt. Magistrate, is subordinate to the Distt.

