

**In the Court of Principal Sessions Judge, Begusarai
(Criminal Revision Jurisdiction)
Criminal Revision No. 81/2026**

[Against the Impugned Order dated 30.03.2026, passed in Case No. 155M/2026, by the court of Ld. SDM, Begusarai]

In the matter of :

Vikash Gautam, S/o Late Suresh Pd. Singh, R/o vill. Ratanpur, Ward No. 22,
P.S. Ratanpur, Distt. Begusarai

.....**Petitioner/Revisionist.**

Vrs.

1. The State of Bihar

..... **O.P. 1st Party.**

2. Sanjeev Kumar, S/o Ram Udgar Singh, R/o vill. Harrakh, P.S. Town,
Distt. Begusarai

.....**O.P. 2nd party.**

Present : Sri Rishi Kant,

Principal Sessions Judge, Begusarai

Ld. Counsel for the Revisionist : Sri Sanjeev Kumar, Ld. Advocate.

Ld. Counsel for the O.P. no. 1/State : Sri Santosh Kumar, Ld. P.P. I/c.

Ld. Counsel for the O.P. no. 2 : No one.

Date of Order: 11.06.2026

ORDER

1. This criminal revision has been preferred under Section 440 of BNSS against the impugned order dated 30.03.2026, passed in Case No. 155M/2026, by the court of Ld. SDM, Begusarai, whereby the learned Magistrate dropped the proceeding under Section 163 BNSS and further observed that, on the basis of materials available on record, the claim of the 1st party appears to be correct.
2. I have heard learned counsel appearing on behalf of the revisionist/petitioner and the learned Public Prosecutor In-charge appearing for the State, and have carefully perused the impugned order as well as the records of the case.
3. Learned counsel for the revisionist submitted that the impugned order dated 30.03.2026 passed by the lower court is perverse, and illegal which is based on surmises and conjecture. The lower court failed to consider the legal aspect as the proceeding u/s 144 Cr.PC. cannot be initiated over the residential house hence as per even report of police and also unimpeachable documents of possession and the title the order of lower court is fit to be set aside at a glance. The order of lower court quite illegal because it is settled principle of law that a proceeding u/s 144 Cr.PC. cannot be even started over the land for which T.S. or TA is pending in this case TA No. 17/2006 is pending still the lower court usurping the jurisdiction of civil court passed an illegal order effecting the right and title of the petitioner. Hence, mere on this ground order is fit to be set aside. The lower court failed to consider that police already reported that petitioner has already constructed building still started proceeding against law over house of petitioner illegally and absurdity. Therefore, he prayed to set aside the order dated 30.03.2026.
4. Per contra, learned Public Prosecutor In-charge opposed the revision and submitted that there is no illegality in the impugned order.

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5. Before advertng to the merits of the revision application, I have gone through the impugned order dated 30.03.2026, the lower court record and the submissions advanced on behalf of the parties. From the record, it appears that the proceeding under Section 163 BNSS was initiated on the apprehension of breach of peace between the parties with respect to the disputed property. After considering the materials available on record, the learned SDM dropped the proceeding on the ground that no immediate apprehension of breach of peace existed. However, while dropping the proceeding, the learned SDM further observed that the claim and papers of the 1st party appeared to be correct.
6. At this juncture, the first question which falls for consideration is as to whether the learned Magistrate, while exercising jurisdiction under Section 163 BNSS, was competent to record any finding or observation touching upon the rights, title, possession or claim of either party after having dropped the preventive proceeding.
7. I have carefully gone through the impugned order and on careful consideration of the same, I find that the learned Magistrate himself recorded a finding that the circumstances did not warrant continuation of the proceeding under Section 163 BNSS and consequently dropped the proceeding. Once such finding was arrived at, the jurisdiction of the learned Magistrate under the preventive provisions stood exhausted.
8. It is well settled that proceedings under Section 163 BNSS are preventive in nature and not adjudicatory. The object of the provision is merely to prevent breach of peace and maintain public tranquility. The Magistrate exercising jurisdiction under the said provision is required to examine only whether there exists a situation likely to cause disturbance of public peace requiring immediate preventive intervention. The scope of enquiry is thus extremely limited and does not extend to adjudication of civil rights, title, ownership or permanent possession of the disputed property.
9. From the impugned order, I find that after having held that there was no likelihood of breach of peace, the learned Magistrate proceeded further and observed that the papers and claim of the 1st party appeared to be correct. In my considered view, such observation travels beyond the scope of jurisdiction vested in the Magistrate under Section 163 BNSS. The learned Magistrate was not required to examine the comparative merits of the claims of the parties once he had concluded that no preventive action was necessary.
10. I further find that admittedly a Title Appeal being T.A. No. 17 of 2006 is pending before the competent Civil Court. The dispute between the parties appears to be essentially civil in nature involving questions of title, possession and proprietary rights. Such questions can only be adjudicated by a competent Civil Court upon appreciation of evidence led by the parties. It is a settled principle of law that Executive Magistrates exercising preventive

jurisdiction cannot usurp the jurisdiction of Civil Courts by recording findings directly or indirectly affecting the rights of the parties in respect of the disputed property.

11. At this juncture, I have also considered the submission advanced on behalf of the revisionist that the disputed property consists of a residential house and that the police report itself indicated existence of construction over the property. Whether the revisionist is in lawful possession, whether he has valid title, and whether the construction has been raised legally are all matters falling within the domain of the Civil Court. The learned Magistrate, while exercising preventive jurisdiction, was not expected to return any finding which may have the effect of prejudicing either party in pending civil proceedings.
12. I further find that the observation made by the learned SDM is not merely an incidental remark but is capable of being relied upon by one party against the other in collateral proceedings. Such observation, though recorded in a preventive proceeding, may create an impression regarding the merits of the dispute and thereby prejudice the adjudication before the competent Civil Court. Therefore, the same cannot be permitted to remain on record.
13. In my considered opinion, once the learned Magistrate reached the conclusion that there was no likelihood of breach of peace and dropped the proceeding, nothing further survived for determination before him. Any observation touching upon the correctness of the claim, possession, title or documents of either party was wholly unnecessary for disposal of the proceeding and beyond the jurisdiction conferred under Section 163 BNSS.
14. Therefore, I am of the view that the observation recorded by the learned SDM to the effect that the claim or papers of the 1st party appear to be correct is without jurisdiction, contrary to the settled principles governing preventive proceedings and liable to be interfered with by this Court in exercise of its revisional jurisdiction.
15. So far as the order dropping the proceeding under Section 163 BNSS is concerned, I find that the same has not been challenged by the revisionist. Accordingly, this Court is not required to examine the correctness or otherwise of that part of the order. The revisional scrutiny is confined only to the aforesaid observation recorded by the learned Magistrate.
16. In view of the discussions made above, I find that the learned SDM acted beyond the scope of his jurisdiction in recording the observation that the claim of the 1st party appeared to be correct. The said observation is not sustainable either in law or on facts and is liable to be expunged from the impugned order.

ORDER

17. Accordingly, this Criminal Revision is allowed in part. The observation contained in the impugned order dated 30.03.2026 passed in Case No. 155M/

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2026 by the learned SDM, Begusarai, to the effect that the claim/papers of the 1st party appear to be correct, is hereby set aside and expunged. However, the order whereby the proceeding under Section 163 BNSS has been dropped shall remain undisturbed, as the same has not been challenged before this Court. It is further clarified that any observation made in the impugned order shall not affect the rights, title, possession or claims of either party in any pending civil proceeding including Title Appeal No. 17 of 2006, which shall be decided independently in accordance with law and on the basis of evidence available on record.

The revision record be consigned to the record room. A copy of this order be sent to the concerned court for information and compliance.

(Dictated, corrected and pronounced by me in open court).

Sd/-
(Rishi Kant)

Principal Sessions Judge
Begusarai
11-06-2026

Date of Judgment/Order	11.06.2026
Date of Reserving Judgment/Order	N.A.
Uploading Date	12.06.2026
Uploaded by	Rahul Verma