

BRBU100003982026



Presented on : 15-01-2026
Registered on : 15-01-2026
Decided on : 07-08-2026

IN THE COURT OF SESSIONS JUDGE AT BUXAR
(Presided Over by KAJAL JHAMB)

Criminal Revision App. No. 05/2026
(Arising out of 1078(M)/2025)

1. Kanhaiya Pathak, aged about 75 years, S/o Late Rameshwar Pathak
2. Sriman Narayan Pathak, aged about 37 years,
3. Akshay Kumar Pathak, aged about 50 years,
4. Mangal Pathak, aged about 32 years, all three sons of Kanhaiya Pathak

All are R/o Village + Post- Itadhiya, Police Station- Dhansoi, District- Buxar

.....The Revisionists

Versus

1. State of Bihar (Through District Magistrate, Buxar).
2. Madhav Ji Pathak, S/o Late Nand Lal Pathak
3. Mosmat Vimla Devi, W/o Late Nand Lal Pathak

Both are R/o Village + Post- Itadhiya, Police Station- Dhansoi, District- Buxar

.....The Opposite Parties

Learned Counsel for Revisionists : Sri Manish Kumar Sinha, Ld. Adv.

Learned. A.P.P. for the State (O.P. No. 1) : Sri Aditya Kumar Verma

Learned Counsel for the O.P. No. 2 to 3: Sri Shiv Shankar Dubey, Ld. Adv.

Order delivered on : 07th August, 2026

ORDER

The present is judicial verdict on Criminal Revision petition no. 05/2026 filed u/s. 440 of B.N.S.S. against the impugned order dated 10.01.2026 passed by the



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Court of Learned S.D.M., Buxar in Case No. 1078(M)2025 titled “Madhav Ji Pathak & Others Vs. Kanhaiya Pathak @ Others”. By passing the impugned order, the Learned Court below withdrew the restraint imposed on first party vide order dated 20.11.2025 and imposed it on the second party vide the impugned order. Aggrieved by the order, the second party including Kanhaiya Pathak, Sriman Narayan Pathak, Akshay Kumar Pathak and Mangal Pathak have filed the instant revision petition.

Brief facts of the case are that O.P. No. 2 & 3 namely Madhav Ji Pathak and Mosmat Vimla Devi filed a petition in the Court of learned S.D.M, Buxar stating therein that on 28.07.2025 Revisionists/Second Party forcibly ploughed their land with an intent to forcibly occupy the same. Hence, requested to initiate proceeding u/s 163 B.N.S..S. against second party.

The learned Court below called for a report from the concerned C.O and S.H.O.. The concerned P.S. reported that both parties are claiming their right over a common land and there is possibility of breach of peace in the area. On the basis of report of the concerned P.S, the learned Court below on 20.11.2025 restrained the parties from committing any overt act which may lead to breach of peace on the disputed land till further order and directed them to file their show cause as to why the injunction issued against either party should not be confirmed. Thereafter, both parties appeared before the court and filed their respective show cause. After hearing both sides, the learned Court passed the impugned order wherein the learned Counsel withdrew the restraint imposed on first party vide order dated 20.11.2025 and imposed it on the second party vide order dated 10.01.2026.

The contention of the Revisionist is that the order passed by the Learned Court below is neither in accordance with law nor in accordance with the facts of the case. The learned Court has passed the impugned order on basis of wrong facts. The impugned order is in violation of the order dated 20.09.2024 passed by learned Sub-Judge-VII, Buxar in Title Suit No. 437/2016. The petitioners got the land in question by Permanent



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Lok Adalat on basis of a compromise in Pre-Litigation Case No. 190/2007 dated 10.10.2007 and decree dated 12.10.2007. The O.P.s filed Title Suit No. 437/2016 for cancellation of said decree which was dismissed by the Court. Ramadhar Pathak, the ancestor of O.P. was party in the Permanent Lok Adalat wherein the land in question was decided and despite that the learned S.D.M. Buxar accepted the possession of O.P. on said land. The petitioners are in possession of land in question and they have cultivated the said land. Against the order passed in Title Suit No. 437/2016 the opposite party has filed a Title Appeal No. 13/2024 before this Court. As the matter is pending before Civil Court, the learned S.D.M, should not have initiated proceeding u/s 163 of B.N.S.S. This way the learned Court has passed one-sided order. The petitioners are paying rent for the said land and in compliance of order passed in Title Suit No. 437/2016 the Bihar Land Tribunal, Patna has also decided the Jamabandi in favour of petitioners. As the order passed by the court is arbitrary and illegal, it deserves to be set aside.

Ld. P.P. for the state opposed this criminal revision stating that there is no visible illegality or irregularity in the impugned order passed by the Ld. court below. The order is a reasoned order and has been passed on the basis of the material available on record. Also two months have already passed since the passage of the impugned order and the order has already become inoperative. Hence the present Criminal Revision is liable to be dismissed.

Learned Counsel for O.P. No. 2 filed rejoinder stating therein that the instant revision has been filed without appropriate ground. The impugned order has been passed after considering the report of concerned Police Station and arguments of both sides. The order is a reasoned order. As far as contention of petitioners that they got the land through compromise in Permanent Lok Adalat is concerned, the documents produced in Lok Adalat were forged. They do not bear the signature or thumb impression of Ramadhar Pathak. The Lok Adalat does not have an authority to issue decree. The Registered Gift Deed No. 13993, dated 15.10.1990 does not bear the name of the



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petitioners which they claim is because of Katib's mistake. If it is true, then there is provision for rectification u/s 26 of Specific Relief Act, 1963 but the petitioners have not even availed that within stipulated time. Also two months have already passed since the passage of the impugned order and the order has already become inoperative. Hence the instant revision is liable to be dismissed.

The main point to consider in present Criminal Revision is whether the order dated 10.01.2026 passed u/s 163 of B.N.S.S. by learned S.D.M, Dumraon in Case No. 1078(M)2025 is liable to be quashed or not?

In the context, the Court finds it proper to quote Sub-Clause 4 of Section 163 B.N.S.S. which provides that:

“No order under this section shall remain in force for more than two months from the making thereof”

In the light of the abovementioned legal provision, the order of Learned Court below which is under consideration, is not in force anymore. Checking the correctness of the impugned order is no more than an academic exercise now.

Accordingly, the present Criminal Revision is hereby **disposed off**.

The office is directed to send a copy of this order along with LCR if any to the Ld. Court below and consign the record of the case to the record room.

Dictated and corrected by me

Sd/-

(Kajal Jhamb)
Sessions Judge, Buxar
Dated 07th August, 2026

Sd/-

(Kajal Jhamb)
Sessions Judge, Buxar
Dated 07th August, 2026

Date of Order	07.08.2026
Date of reserving order	28.07.2026
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