

In the Court of Sessions Judge, Darbhanga, Camp Court, Biraul.

Criminal Revision No. 19/2026

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Shyam Nandan Ray son of Late Durga Rai,

R/O village Gopalpur Arthua P.S. Tilleshwar District Darbhanga

.....Petitioner

Versus

1. The State of Bihar..... Opposite 1st Party

2. Ramjatan Rai son of Late Ram Saran Rai

3. Shivji Rai son of Late Ram Saran Rai

Both R/O Village Gopalpur Arthua P.S. Tilleshwar District Darbhanga

..... Opposite 2nd Party.

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For the petitioner – Sri R.K. Pathak, Learned Counsel

For the State – Sri C.L. Pandit, Learned Addl. Public Prosecutor

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ORDER

22.07.2026: The present Criminal Revision Application has been filed on behalf of petitioner Shyam Nandan Ray against the order dated 13.03.2026 passed by the learned Sub-Divisional Magistrate, Biraul in M.R. Case No. 22 of 2026 initiated under Section 163 of Bhartiya Nagrik Suraksha Sanhita, 2023 whereby and where under the Court of learned Sub-Divisional Magistrate, Biraul has been pleased to drop the proceeding making the order of restraint absolute against the petitioner/second Party.

2. Heard learned the counsel for the petitioner as well as learned Public Prosecutor for the State.

3. The learned counsel for the petitioner submits that the impugned order dated 13.03.2026 passed in M.R. Case No. 22/2026 by the learned Sub-Divisional Magistrate, Biraul is bad in law as well as on facts. The further


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submission is that the provisions of Section 163 of Bhartiya Nagarik Suraksha Sanhita 2023 can be used in urgent matter but there can be no declaration of possession over any movable or immovable property by the Learned Court or permanently restraining any party from enjoying the fruit of his property. The further submission is that the impugned order is based on conjectures and surmises. The further submission is that the learned court below passed the impugned order only on the basis of the sale deed dated 12.01.2013 in which rightful owner of the land Krishna Pratap Singh has executed the sale deed in favour of Shyam Nandan Ray and Jamabandi has been opened in the name of Shyam Nandan Ray vide Jamabandi receipt no. 1118. The further submission is that the Learned Lower Court has ignored the legal propositions and the order impugned has been passed erroneously relaxed the restraint order in favor of Opposite Party. Hence, he prays to set aside the impugned order.

4. On the other hand, learned Public Prosecutor opposes the prayer of the petitioner and by relying the decision of the decision of Vakil Yadav Vs. State of Bihar submits that since the time span of 60 days regarding the impugned order has already been consumed and expired and the same becomes of no use for either of the parties, hence in the submission of the Learned Counsel the proceeding has become infructuous and the order does not require any inference and the learned Public Prosecutor prays to reject the present criminal revision application .

5. Heard and perused the case record. By perusal of the same it appears that by order dated 13.01.2026, the learned Sub-Divisional Magistrate, Biraul initiating a proceeding under Section 163 of Bhartiya Nagarik Suraksha Sanhita 2023 against the both the parties and noticed them and the order impugned came to be passed on 13.03.2026 disposing off the application. It is reflective from the case record that the first party in the proceeding namely Ramjatan Ray came in peaceful possession of the land in question pertaining to Khata no. 167(old), 29(new) kheshra no.911(old) 1120(new) in mauja Gopalpur Asthua PS

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Tilkeshwar District Darbhanga as the said land belong to him by virtue of sale deed dated 03.08.1992 and possession thereof but despite the Opposite parties started litigating over the said land necessitating the filing of the case. It is true that the power under Section 163 of Bhartiya Nagarik Suraksha Sanhita 2023 is prohibitory in nature and whenever during such a proceeding, there is some doubt in the mind of the court regarding any dispute concerning land or water which is likely to cause breach of peace, then the Learned Magistrate may take recourse of section 164 of Bhartiya Nagarik Suraksha Sanhita 2023, where the parties may be required to produce evidence or written document in support of their Claim, which shall be considered by the Learned court to decide as to which of the party was the party in possession over the disputed land at the date of order made by him under sub Section {1} but however, by perusal of the record it appears that by order dated 13.03.2026 passed in M.R.Case no. 22 of 2026 initiated between the parties, it appears that the Learned Court below has dropped the proceeding finding the claim of first party Ram Jatan Rai and Shivji Rai{ Opposite Party no. 2} in the present application to be genuine but has not converted into proceeding under section 164 of Bhartiya Nagarik Suraksha Sanhita 2023 which is not justifiable in such event. When this court considers the scope of Section 163 of Bhartiya Nagarik Suraksha Sanhita 2023, it appears that the order is prohibitory in nature and is only sustainable for a period of sixty days from the date of its initiation unless it is converted under a Proceeding Under section 164 of Bhartiya Nagarik Suraksha Sanhita 2023 which has not been done by the Learned Court below.

6. By perusal of the order impugned, the court does not find any good ground to interfere in the order because the order is merely simplicitor dropping the proceeding and the power of this court under criminal revisional jurisdiction is very limited to the extent of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order of such inferior court and travel beyond the same is not permissible. However, by going through the

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decision of Vakil Yadav Vs. State of Bihar and relied upon by the state, the Court is of the view that the time span of 60 days regarding the force of impugned order has already been consumed and expired and the same becomes of no use for either of the parties.

7. Under the circumstances, the criminal revision application does not require any consideration or merit to be discussed and the same stands **disposed off** with observation that none of the order passed by the Learned Court below shall prejudice any of the party unless the issue is settled by the Competent Civil Court.

(Let the copy of this order be communicated to the learned Court below for information)

(Dictated)

Ajay Kumar Sharma
(Ajay Kumar Sharma)

Sessions Judge, Darbhanga

Camp Court, Biraul.

22.07.2026.

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