

**IN THE COURT OF DISTRICT & ADDL. SESSIONS JUDGE III,
Jehanabad
DISTT. Jehanabad (BIHAR)
CRIMINAL REVISION NO. 58/2017**

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1. **Baijnath Sharma, S/O Late Lakshuman Sharma, R/O Afzalpur, PS Kako (Pali), Dist. Jehanabad**
 2. **Vishwanath Sharma, S/O Late Lakshuman Sharma, R/O Afzalpur, PS Kako (Pali), Dist. Jehanabad**

.....Petitioner

VS.

1. **The State of Bihar**
 2. **Satyendra Kumar,**
 3. **Upendra Kumar**
 4. **Sonu Kumar,**
 5. **Alindra Kumar,**
- All S/o Raja Singh,**
All R/O Afzalpur, PS Kako, Dist. Jehanabad

.....Opposite Parties

Counsel for the Petitioner : Mr. Girijesh Chandra Kaundil, Adv.

Counsel for the State : Sri Shailendra Kumar Singh , APP

Counsel for the Opp. Party No.- 2 to 5 : Sri Pramod Kumar, Advocate,

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DATE OF JUDGMENT : 16.06.2026

PRESENT : Syed Qamrul Hasan Rizvi

DISTRICT & ADDL. SESSIONS JUDGE III, Jehanabad

JUDGMENT

1. The revision application is directed against the order dated 21.07.2017 passed by Ld. S.D.M, Jehanabad in case no. 1195/1996 U/s 145 of Cr. P.C.
2. It is stated in the application that the revisionist were the first party before the court below where proceeding U/s 145 of Cr. P.C. was started. The respondents were second party before the court below. Both the parties filed

their respective written statement and then adduced oral and documentary evidences. It is submitted that first party adduced documentary evidences like Jamindari, Malguzari receipts which proves that first party had been in continuous possession of the land even during Jamindari period. He submits that Government of Bihar recognized ancestors of first party as Raiyat of the land and opened demand in demand register and issued rent receipts and now the state cannot deny the possession of first party on the land. He further submits that the first party/ petitioner revisionist adduced return which proves that settlement of land as well as his possession but the court below brushed aside all the documents and oral evidence and passed the impugned order dated 21.07.2017. He submits that Ld. Court below held that lands under the proceeding are Government land which is against the Law laid down by the High Court in a case reported in **2014 (3) PLJR 584** and **AIR 1955 Patna** which says that if the state is aggrieved then it can move the Civil Court for declaration of Title.

3. Learned counsel for the petitioner revisionist submits that there are several rulings and guidelines by the Hon'ble High Court and Hon'ble Supreme Court on this point. He filed order of Hon'ble Patna High Court reported as **Maya Devi Vs State of Bihar 2014 (4) BBCJ V 152** and also order of Hon'ble Jharkhand High Court passed in **Utpal Chakarvarty Vs. State of Jharkhand and ors. WP (c) no. 6667 of 2023 dated 20.02.2025** in support of his contention. Accordingly Learned counsel for the petitioner submits that the order of learned court below is erroneous and bad in law and is liable to be set aside.

4. Learned counsel for the state defends the order of the court and submits that there is no error or infirmity in the impugned order.

5. An objection on behalf of respondent nos 2 to 5 of this revision petition was filed and Ld. Counsel appeared and submitted that they were second party before the court below. He submitted that this revision is only maintainable on the point that the order passed by Ld. SDM, Jehanabad that the land under dispute is of State of Bihar and the same is beyond the jurisdiction. He also drew attention of this court towards the evidences brought on record before the court below and he also prayed that the impugned order must be set aside but he further prayed to declare the possession of these respondents over the disputed lands.

6. Heard the argument and perused the record including the impugned order dated 21.07.2017. I took guidance from the order of Hon'ble Courts placed on the record too. Perusal of record shows that Learned court below while concluding its order directed C.O., Kako that the *land in question is Government land. If C.O., Kako finds any encroachment on the land then he will institute Atikarman Vad or if there is problem of public nuisance then by instituting case U/s 133 of Cr.P.C. and will ensure to get free the disputed land.* This highlighted portion of the impugned order is against the established Law which is clear from the bare perusal of section 145 of Cr. P.C. which only talks about possession and not the title of any land. The declaration of title can be done by only court of competent civil jurisdiction and hence if the state intends for the same then it is for them to move the Civil Court for proper declaration. Besides this there is cardinal principle of law which is *Nemo Judex in Causa Sua* which means no one should be made a Judge in their cause.

7. Considering all these facts and circumstances I find merit in this

revision application. Therefore, the order dated 21.07.2017 is set aside and the court below is directed to pass fresh order in accordance with law. Hence this application is allowed.

Written and corrected by me.

S/d

Syed. Qamrul Hasan Rizvi

D.A.S.J III, Jehanabad

16.06.2026

S/d

Syed Qamrul Hasan Rizvi

DA.S.J III, Jehanabad

16.06.2026

Office of the Addl. Sessions Judge-III, Jehanabad

Memo No.-----/Dated

Copy of order along with LCR forwarded to the court of **SDM, Jehanabad** for information and needful.

**Addl. Sessions Judge-III
Jehanabad**