

CRIMINAL REVISION

**In the Court of District and Additional Sessions Judge-III, Jhanjharpur
District: Madhubani**

**Present : ANIL KUMAR RAM
DASJ-III, Jhanjharpur**

Dated, Jhanjharpur, the 20th July, 2026

**[Cri. Revision No. - 06/2026]
arising out of MR Case No. 1056/2025**

1. Srilal Kamat, aged about 59 years S/o Shri Bauelal Kamat
2. Ram Bahadur Kamat, aged about 62 years S/o Shri Bauelal Kamat
3. Kamlesh Kamat, aged about 30 years S/o Shri Bauelal Kamat

All R/o Vill.- Mainha, PS- Phulparas, Distt.-Madhubani

-----**Petitioners/ Revisionists**

Vs.

1. State of Bihar.....**O.P. 1st Party**
2. Dharmendra Kumar Sah, S/o- Late Magdum Ram Sah
R/o Vill.- Alua, PS- Phulparas, Distt.-Madhubani
.....**O.P 2nd Party**

Ld. Lawyer for State : Sri. Deo Shankar Jha, Ld. A.P.P.

Ld. Lawyer for Revisionists/petitioners : Sri. Krishnadeo Mahto, Ld.
Advocate.

ORDER

1. The learned counsel for both parties are present.
2. Being aggrieved and dissatisfied with the impugned order dated 05.12.2025 passed in MR No. 1056/2025 passed by the S.D.M. Phulparas (Madhubani) who made the order absolute and absolute proceedings are directed against the second party, without considering and appreciating the fact and has prayed to set aside the above said order.
3. From the order sheet, it appears that this revision has been admitted on 08.01.2026 and LCR has been received on 15.05.2026.
4. Heard, Ld. Counsel for the Petitioners/Revisionists and Ld. Addl.P.P for the State and Ld. Counsel for OP.
5. The learned counsel for the revisionist has preferred revision on the following grounds:-
 - i. For that, the impugned order dated 05-12-2025 passed against the revisionists by the Ld. Court below, in M.R. case no. 1056/2025, is bad, illegal and without jurisdiction in the eye of law or on facts.
 - ii. For that, the basis of the proceeding is completely false.
 - iii. For that, the learned Court below has not applied his mind nor has got any reasonable cause to have his satisfaction to pass the impugned order dated 05-12-2025 nor he has gone through the subject matter of the fact in issue.
 - iv. For that, it is to be noted here that from very perusal of the police report the court of your honour would find that the police had gone to village Sangi in place of village Mainha to query the matter in respect of the land which is ridiculous and miracles that the police had gone to query in village Sangi in lieu of the land where it situates and knew there was apprehension of breach of the peace which can't be reliable and admissible in the law rather the same falsifies the entire proceeding as well as the impugned order dated 05-12-2025.
 - v. For that, the learned Court below has issued notice on a common printed form upon which there is no room to have assign its reason to initiate and to pass final impugned order dated 05-12-2025 against the revisionists, hence the instant proceeding and the impugned order is the complete misuse of the process law.

- vi. For that, the noticed issued to the revisionists, there has been mentioned two survey plots, one of them is 685 of Khata 155 and another is of 1021 of Khata 372 with an common area of 13 Katha whereas both the survey plots depicts at different places far from the each other of which area cannot be have the same measurement and hence the proceeding is vague and omnibus and is bound to be dismissed on this sole ground.
- vii. For that, in the impugned order dated 05-12-2025 shows that on behest of the O.P. 2nd Party the Ld. Court below had changed its idea and allowed the O.P. 2nd Party to proceed with the proceeding with the Khata No. 236 in place of Khata no. 372 whereas there is no provision u/s 163 of the B.N.S.S. to change or amend the plot number after initiation of the proceeding which is also a misuse of the process of law, hence the impugned order dated 05-12-2025 is bound to be dismissed.
- Viii. For that, from very perusal of the impugned order dated 05-12-2025 the court of your honour would find that the proceeding was initiated for an area of 13 Katha of land whereas the O.P. 2ndParty has claimed only for an area of 7½ dhur land.
- ix. For that, the O.P. 2nd Party had further submitted that the remaining land was concerned with his cousin brother, (he doesn't claim for himself) hence the ld. Court below has committed blunder and has failed to apply his mind and has committed commissions and omissions to make wrongful gain to the O.P. 2nd Party.
- x. For that, as per the genealogical table submitted on behalf of the O.P. 2nd Party there is no concerned with the land under proceeding with the ancestors as has been said.
- xi. For that, the ld. Court below has got no authority to adjudicate the right, title and ownership of a person for any land u/s 163 of the B.N.S.S., hence the ld. Court has exceeded its limit and has misused the process of law and caused injustice to the revisionists by passing such impugned order dated 05-12-2025 hence the same is bound to be dismissed at once.
- xii. For that, the ld. Court below has totally failed to apply its mind to consider the submission of the revisionists nor has mentioned their documents in its finding and has passed the impugned order dated 05-12-2025 such as ex-party and prejudiced.
- xiii. For that, the land is always in the exclusive possession of the revisionists and its vendors and have got their houses since decades and is still under construction as renovation.

- xiv. For that, there is decisive decisions of the Hon'ble Court that under such circumstances the impugned order dated 05-12-2025 u/s 163 of the B.N.S.S. can't be sustained and is bound to be dismissed at a glance.
- xv. For that, revisionists would be prejudiced if the impugned order dated 05-12-2025 wouldn't be ordered to be dismissed.

6. The learned counsel for OP has opposed the case and has prayed to dismiss the revision petition.

7. **Perused** the case record, including the impugned order dated 05.12.2025 passed in MR No. 1056/2025 passed by the S.D.M. Phulparas (Madhubani). On perusal of LCR, I find that S.D.M, Phulparas has mentioned in his order that “upon reviewing the show-cause responses submitted by both parties, hearing their arguments , and evaluating the facts on record, it is established that:

The original ancestral (khatiyani) tenants of the land in question were Bhai Lal, Bhai Nath Sah had three sons: Srilal Sah, Sufal Sah, and Baudhu Sah. Deed dated 26/10/1962 from Yogendra Sah, Son of Sufal Sah. Musahru Sah had two sons, Munni Lal Sah and Nevaji lal Sah. Munni Lal Sah's sons were Jaydev Sah and late Satyadev Sah. Late Satyadev Sah's wife, Smt. Vindeshwari Devi, transferred 03 Kattha 10 ½ Dhur via a registered sale deed transferring the land to Raja Kumar, son of the First Party . Nevaji Sah and Bhai Nath Sah were maternal uncles of the First Party who handed over their respective shares to the First Party. On the other hand, the Second party acquires an area of 06 Kattha 14 Dhur 8 Kanma via a sale deed dated 20.12.2024 from Brij Mohan Gupta, resident of Majhauda a registered sale deed was filed, but no evidence was presented showing how Brij Mohan Gupta acquires the land. Thus, the claim of the second party does not appear to be correct. Upon examining all documents, the claim of the first party appears prima facie correct. Therefore, in the interest of the first party, the order is made absolute, an absolute proceedings are directed against the second party. With this direction, the case proceedings are closed. Both parties are directed to maintain peace and order”. In Indian Law an SDM has the authority to issue temporary prohibitory orders in land disputes if there is an imminent threat of violence or breach of peace. It is settled principle of law that SDM cannot definitely determine property title or ownership right. But from perusal of order of SDM, Phulparas it appears that he has exceeded his jurisdiction by deciding prima facie title of the parties which is not permitted in law and prima facie the order appears perverse. Hence this court is of the view that impugned order has not been passed rightly by the S.D.M Phulparas and there is need of interference by this court.

ORDER

8. Accordingly, this court find illegality, irregularity, incorrectness or impropriety in the impugned order dated 05.12.2025 passed in MR No. 1056/2025 passed by the S.D.M. Phulparas (Madhubani). **In the result**, this criminal revision petition is hereby **allowed** and order passed by SDM Phulparas is set aside with direction to pass fresh order by hearing both parties. Office is directed to send the LCR along with copy of this order to S.D.M. Phulparas (Madhubani) immediately and consign the case record of Criminal Revision in record room. Accordingly this revision petition stands disposed off.

Dictated

(ANIL KUMAR RAM)
DASJ-III, Jhanjharpur

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