

**IN THE COURT OF DISTRICT & ADDL.SESIONS JUDGE-I, ROSERA AT
SAMASTIPUR**

Presiding Officer: Dushyant Kumar

Criminal Revision No. 402 of 2023.

CIS No. 21 of 2023

(Arising out of M.R. No. 241/2023)

In the matter of

- 1. Shankar Mahto Son of Late Dayanand Mahto,**
- 2. Manoj Mahto Son of Late Dayanand Mahto,**
- 3. Ashok Mahto Son of Late Dayanand Mahto,**
All R/o Village-Narhan, P.S.- Bibhutipur
District- Samastipur,

.....Revisionists/Petitioners

Versus

- | | |
|---|---|
| 1. The State of Bihar. | Opposite Party/Respondent No.-1 |
| 2. Nasiruddin Miya Son of Late Mahmood Miya,
Resident of Village- Narhan, Ward No.-02,
P.S.- Bibhutipur, District- Samastipur. | Opposite Party/ Respondent No.-2 |

Appeared:- For the Revisionist /petitioner:- None
For the State:- Sri Shiv Shankar Yadav, Addl.. P.P.

ORDER

09.06.2026

1. Neither the revisionists/petitioners nor anyone on their behalf has appeared in this case since 09.09.2023.
2. The instant revision petition has been filed by the above-captioned revisionists/petitioners against the order dated 12.06.2023 passed by the Ld. Sub-Divisional Magistrate, Rosera, in M.R. No. 241 of 2023 under Section 144 of the Cr.P.C. (hereinafter referred to as the “**impugned order**”), whereby the learned S.D.M. issued a show-cause notice to the revisionists as to why the order passed against them under Section 144 of the Cr.P.C. should not be confirmed.
3. Briefly stated, on the basis of the reports of the S.H.O., Rosera dated 02.05.2023 and the Circle Officer, Rosera dated 05.06.2023, an order under Section 144 of the Cr.P.C. was passed to prevent a breach of peace, whereby the revisionists and the opposite party, namely Nasiruddin Miya, were directed not to visit the land in question or to do any act that might result in a breach of peace. Thereafter, vide the impugned order, a show-cause notice was issued to the revisionists calling upon them to explain as to why the aforesaid order passed under Section 144 of the Cr.P.C. should not be confirmed.
4. Being aggrieved by the impugned order, the revisionists preferred the present revision petition on the grounds that the impugned order is not maintainable in the eyes of law, is contrary to law and facts, and has been passed without due application of judicial mind. It has been contended that the impugned order is in clear violation of the provisions of law. The Ld. S.D.M. failed to appreciate that the extraordinary power under Section 144 of the Cr.P.C.

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ought to be exercised only in cases of grave emergency, whereas the police report merely disclosed an apprehension of breach of peace. It has further been urged that the Ld. Magistrate failed to appreciate the distinction between a mere possibility and a reasonable probability of breach of peace and, therefore, ought not to have resorted to the provisions of Section 144 of the Cr.P.C. in the facts and circumstances of the present case. It has also been submitted that, before initiating proceedings under Section 144 of the Cr.P.C., which are in the nature of an injunction affecting the rights of a person claiming lawful possession, greater caution ought to have been exercised. The petitioners have further stated that they had purchased the land in question from Dayanand Mahto by virtue of three registered sale deeds dated 09.08.2016 and have remained in peaceful possession thereof since the date of purchase.

5. Perused the record. It appears that neither the revisionists nor any person on their behalf has appeared in this case since 09.09.2023. Moreover, the present revision petition has become infructuous. As provided under Section 144(4) of the Cr.P.C., no order passed under Section 144 shall remain in force for a period exceeding two months unless extended in accordance with law. The impugned order was passed on 12.06.2023, and nearly three years have elapsed since then. Consequently, the relief sought by the revisionists has become infructuous.
6. Furthermore, the impugned order merely issued a show-cause notice regarding confirmation of the order under Section 144 of the Cr.P.C. and did not finally determine the rights or liabilities of the parties. The impugned order is, therefore, purely interlocutory in nature, against which a revision petition is barred under Section 397(2) of the Cr.P.C.
7. In view of the foregoing discussion, the instant revision petition is disposed of as having become infructuous.
8. Let a copy of this order be transmitted to the Court of the learned S.D.M., Rosera, for information and necessary action. Let the record of this revision petition be consigned to the Record Room.

(Dushyant Kumar)

District & Additional Sessions Judge-I
Rosera, Samastipur