

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 62/2026

Surendra Pal Beniwal S/o Shri Lal Chand, Aged About 51 Years,
Resident Of Ward No. 27, Bhabhuta Sidh Colony, Hanumangarh
Town Tehsil District Hanumangarh.

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Virendra Kumar S/o Subhash, Aged About 28 Years,
Resident Of Ward No. 22, Hanumangarh Town Tehsil
District Hanumangarh.

-----Respondents

For Petitioner(s)	: Mr. Dixit Panwar
For Respondent(s)	: Mr. N.S. Chandawat, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

DATE OF CONCLUSION OF ARGUMENTS	12/02/2026
DATE ON WHICH ORDER IS RESERVED	12/02/2026
FULL ORDER OR OPERATIVE PART	Full Order
DATE OF PRONOUNCEMENT	16/03/2026

BY THE COURT:-

1. The present Criminal Miscellaneous Petition has been filed under Section 528 B.N.S.S. by the petitioner, challenging the order passed by the learned Additional Sessions Judge No.1, Hanumangarh, on 20.12.2025 in Criminal Revision No. 97/2025. This order dismissed the petitioner's revision, which was filed against the order passed on 09.12.2025 by the learned Sub-Divisional Magistrate, Hanumangarh, in Criminal Case No. 01/2025, wherein it was directed to hand over possession of the disputed property to respondent No.2.

2. The facts giving rise to the instant Misc. Petition are that on 15.12.2024, the Station House Officer of Hanumangarh Town Police Station submitted a complaint before the Sub-Divisional Magistrate, Hanumangarh, under Section 164 B.N.S.S., citing a dispute between the executive committee of Arya Samaj Hanumangarh Town and the newly formed executive committee of Arya Samaj Pratinidhi Sabha, Jaipur. The dispute pertained to the possession and ownership of the Arya Samaj Mandir premises. The officer expressed concerns that both parties, intent on asserting their claims, might engage in acts of violence, thus disturbing public peace. Given the history of conflicting orders and the imminent threat of law and order disruptions, the Sub-Divisional Magistrate directed immediate action under the BNSS provisions, ensuring stringent surveillance and investigation. The task was entrusted to Sub-Inspector Shambhudayal.

2.1. Upon investigation, the Sub-Inspector reported that the competing parties, both asserting their right to the disputed property, were likely to provoke altercations. With the urgency of the situation, the officer recommended a unilateral decision, suggesting the appointment of a receiver to manage the premises. Consequently, on 21.01.2025, the Sub-Divisional Magistrate, without granting the petitioner an opportunity to be heard, ordered the Station House Officer to assume receivership of the premises, under Sections 164 and 165 B.N.S.S.

2.2. On 06.12.2025, the respondent filed a revision petition before the Additional Sessions Judge, Hanumangarh, challenging the order of 21.01.2025. The Additional Sessions Judge, vide order dated 06.12.2025, annulled the earlier order and remanded

the case back to the Sub-Divisional Magistrate for fresh consideration after providing both parties an opportunity to be heard.

2.3. Subsequently, on 08.12.2025, the respondent filed an application before the Sub-Divisional Magistrate seeking possession of the disputed property. On 09.12.2025, the Magistrate ruled in favor of the respondent and directed the transfer of possession. The petitioner, dissatisfied with this order, filed a revision petition before the Additional Sessions Judge, Hanumangarh. However, on 20.12.2025, the Additional Sessions Judge dismissed the petition, upholding the Magistrate's decision. Hence, the instant Criminal Misc. Petition.

3. I have heard the learned counsel for the parties and carefully reviewed the impugned orders. After due consideration of the rival submissions and a thorough examination of the facts and orders passed by the courts below, this Court proceeds to record its findings and conclusions which are as under:-

(a) A critical examination reveals that the SDM, Hanumangarh did not comply with the mandatory requirements prescribed under Sections 145 & 146 of the Code of Criminal Procedure (Cr.P.C.), which necessitates the Magistrate's satisfaction that a genuine dispute exists over possession and that a breach of the peace is imminent. The SDM's order failed to record this essential satisfaction and did not provide a cogent explanation for the appointment of a receiver under Sections 164 and 165 B.N.S.S. This omission is not a mere formal lapse but a substantial flaw that renders the SDM's order legally untenable.

(b) The learned Addl. Sessions Judge No.1, Hanumangarh, in exercising its revisional jurisdiction, astutely identified this glaring procedural error. In its wisdom, the Sessions Judge annulled the SDM's order and remanded the matter for fresh consideration, ensuring that both parties are given an opportunity to be heard and that the proper legal procedures are followed. The learned Addl. Sessions Judge relied on the established precedents, notably ***Rajnikant Agarwal vs. Gopali Devi Meena & Ors., 2010 (1) RLW 75 (Raj.) and Ashoknath Chela Keval Nath vs. State of Rajasthan & Anr., 2023 (2) Cr.L.R. (Raj.) 636***, which underscore the imperative to adhere strictly to procedural safeguards, especially in cases that may result in public disorder.

(c) The learned revisional court, thus acted with due judicial acumen in remanding the matter, recognizing the flaws in the SDM's order and ensuring that the case was adjudicated in accordance with the law. The citation of case laws in the appellate court's order reflects the proper application of legal principles, reaffirming the correctness of its adjudication. The reliance on these precedents demonstrates the learned Judge's commitment to ensuring that justice is not only done but is seen to be done with full respect to the law.

4. In light of these considerations, this Court is of the firm opinion that the order passed by the SDM, Hanumangarh is not in accordance with the law and is therefore liable to be quashed. On the other hand, the order dated 20.12.2025 passed by the learned Additional Sessions Judge No.1, Hanumangarh, is sound

and well-founded in law. The remand order issued by the appellate court was entirely appropriate, and this Court sees no reason to interfere with the same.

5. For the reasons outlined above, this Court finds that the impugned order of the Sub Divisional Magistrate, Hanumangarh dated 09.12.2025 was not passed in accordance with law. The learned Additional Sessions Judge No.1, Hanumangarh, has rightly adjudicated the matter, ensuring that justice is meted out in accordance with the procedural safeguards of the law. The order of remand, which has been correctly based on the principles enunciated in the cited case laws, does not warrant any interference from this Court.

6. Accordingly, the instant Criminal Misc. Petition is hereby dismissed. All pending applications, if any, shall stand disposed of.

(FARJAND ALI),J

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