



CRL RC(MD)No.360 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 25.08.2025

PRONOUNCED ON : 13.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.360 of 2025

and

CRL. M.P.(MD)No.3746 of 2025

1.M/s. Nithyananda Dhyanapeetam
Rep. by its Trustee,
Arungundram Nagarajan
Chandrasekaran,
having office at Nithyanandapuri,
Bidadadi-562 109,
Karnataka District.

2. Deepa

... Petitioners

Vs.

1.The Sub Divisional Magistrate/ Sub Collector,
Rajapalayam,
Virudhunagar District.

2.The Deputy Superintendent of Police,
Rajapalayam,
Virudhunagar District.

3.The Inspector of Police,
Rajapalayam South,
Virudhunagar District.

4.Chandran

5.Ganesan

... Respondents

1/16



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PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, to set aside the order passed by the 1st respondent in Na.Ka.No.A2/M.C.12/2024 dated 10.02.2025.

For Petitioner	: Mr.Isaac Mohanlal, Senior Counsel, For M/s. Isaac Chambers.
For R-1 to R-3	: Mr.M.Sakthikumar, Government Advocate.
For R-4 & R-5	: Mr.S.Meenakshi Sundaram, Senior Counsel, For Mr.T.Selvan.

ORDER

Challenging the order of the 1st Sub-Divisional Officer/Sub-Collector, Rajapalayam, made in Na.Ka.No.A2/M.C.12/2024 dated 10.02.2025 under Section 164 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the present Criminal Revision Case is filed by (i) Arungundram Nagarajan Chandrasekaran, representing M/s.Nithyananda Dhyanapeetam as its Trustee, and (ii) Deepa, volunteer of M/s. Nithyananda Dhyanapeetam. The petitioners seek to set aside the restraint order whereby both sides (A-party and B-party) were prohibited from entering or interfering with the subject properties.



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2. *Factual Matrix & Genesis:*

2.1. On 16.07.2024, the third respondent-police addressed the first respondent/Sub-Collector to exercise powers under Section 164 BNSS, citing a dispute between A-party and B-party over title, enjoyment and possession of properties situated in Rajapalayam Taluk, said dispute allegedly giving rise to law and order issues.

2.2. The properties include survey numbers in Samusikapuram Village, Kodainachiyarpuram Survey Nos. 385B/12, 355B/12, 385B/12C, 385B/12A, 385/17A1B, 385/7A1, 385B/17A1B), and 15 acres land comprised in Metupatti Village Survey Nos. 11/5, 11/6, 17/2, 17/3, 17/4, 17/7), and Solaiseri Survey Nos. 17/1, 17/2 in Rajapalayam Taluk.

2.3. The Revenue Divisional Officer, Rajapalayam, conducted an enquiry and submitted a report dated 21.10.2024. Following which summons were issued to both sides on 30.11.2024, 19.12.2024, and 30.12.2024. Thereafter, the impugned order dated 10.02.2025 was passed by the 1st respondent.



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3. Impugned Order - Key findings recorded by the 1st respondent Sub-Collector:

3.1. Settlement/Gift Deeds executed in 2007: The A-party, Dr. Ganesh, S/o. Velayutha Raja, executed two registered settlement (gift) deeds, that is, vide Doc. No.1609/2007 dated 02.07.2007, gifting 5 acres in Kodainachiyarpuram Survey Nos. 385B/12, 355B/12, 385B/12C, 385B/12A, 385/17A1B, 385/7A1, 385B/17A1B), and 15 acres land comprised in Metupatti Village Survey Nos. 11/5, 11/6, 17/2, 17/3, 17/4, 17/7), and Solaiseri Survey Nos. 17/1, 17/2, Rajapalayam Taluk, vide Doc. No.3861/2007 dated 06.08.2007 in favour of the B-party, M/s.Nithyananda Dhyanapeetam, allegedly out of love and devotion at the request of Swami Nithyananda.

3.2. Cancellation: On the allegation that the properties were not utilised for the stated religious purposes, **Doc. No.582/2010 dated 05.03.2010** was executed by A-party unilaterally cancelling the above gift deeds.

3.3. Civil Proceedings: A-party thereafter filed a civil suit before the learned Subordinate Judge, Srivilliputhur for declaration,



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possession and injunction against the B-party; the suit was later dismissed as not pressed. Subsequently, two fresh suits were instituted, viz, O.S. No.20 of 2024 (Sub Court, Srivilliputhur) and O.S. No.33 of 2024 (Principal District Judge, Virudhunagar at Srivilliputhur). Both suits are pending.

3.4. **Appearance and Documents:** On behalf of B-party, Mrs. Surekha sought four weeks time to produce documents establishing title/possession. The Sub-Collector recorded that no documents were later produced.

3.5. **Law and Order:** The police recommended preventive action under Section 164 BNSS, 2023. The Sub-Collector concluded that allowing both sides to continue entering the properties would likely cause breach of public peace.

3.6. **Operative Direction:** Both A-party and B-party were restrained from entering or interfering with the possession of the properties, wherein the third respondent-police was directed to ensure peace and enforce the restraint. Challenging the aforesaid order of the



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1st respondent, this Criminal Revision Petition is filed by the B-party.

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4. **Submissions:**

4.1. The learned Senior Counsel Mr. Issac Mohanlal appearing for the petitioners submitted that, the dispute is purely civil; civil suits are pending and no interim relief has been granted to A-party. Recourse to Section 164 BNSS, 2023, indirectly grants what the civil Court has declined to grant. The 2007 registered gift deeds are irrevocable and cannot be unilaterally cancelled; the 2010 cancellation is *void ab initio*. The donor's earlier suit was withdrawn on 12.03.2012 and the same was dismissed as withdrawn on 16.04.2012 acknowledging fulfilment of objects. Thereafter, there was no dispute for 11 years. The Sub-Collector did not record a proper Section 164(1) preliminary order or a clear finding on actual possession as required by Section 164(4); instead, he directed both sides to keep off, which defeats the statute's object of preserving actual possession pending civil adjudication. The Trust has patta, building plan approval, VAO possession certificate (2008), tax and electricity records, and has been conducting rituals/Annadanam since 2008, all evidencing longstanding possession. Where civil litigation on the same property is pending, criminal process under the old Section 145 Cr.P.C., 1973/present section 164 BNSS, 2023, must not be used to short-circuit civil



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remedies. Criminal orders remain subservient to civil Court determinations and the learned Executive Magistrate must confine himself to preserving actual possession, not evicting both sides. Maintainability objection (trust as non-juristic person) is inapposite in a criminal process set in motion by an informant. In any event, a Supplementary Deed (18.10.2022) and a Board Resolution (24 December) authorize representation.

4.2. The learned Senior Counsel Mr.Meenakshi Sundaram appearing for the 5th respondent submitted that, Section 164 BNSS, 2023, is preventive and temporary; it does not confer title. Pendency of civil suits is no bar to such preventive directions to avert breach of peace; any civil decree will override the section 164 order. The Trust is not a juristic person; representation is defective; no trustees appeared before the RDO; one Deepa appeared without proof of trusteeship. The affidavit in revision is by a person not shown to be competent under the parent Trust Deed, which vests management in a Board and designates Paramahamsa Sri Nithyananda as Managing Trustee for life. Writ proceedings in 2017/2025 indicate that Nithyananda continues to act as Head, undermining the plea of his resignation. The Supplementary Deed/Resolution is unclear vis-à-vis the lifetime clause. Given the



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contested claims, the magnitude of the properties, religious activity, and the potential for disturbance, directing both sides to keep off was a neutral, peace-preserving measure. One power-of-attorney holder has also filed an undertaking not to enter the property.

5. Heard the learned counsels on either side and carefully perused the materials available on record.

6. *Points for Determination:*

(i) Whether the invocation of Section 164 BNSS, 2023, by the Sub-Collector satisfies the statutory pre-conditions, including a preliminary order recording satisfaction about a dispute likely to cause breach of peace, and compliance with the mandate to determine actual possession?

(ii) Whether, in the circumstances of pending civil suits on title/possession, the form of the restraint issued, directing both sides not to enter, is within the permissible contours of Section 164 BNSS, 2023?



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(iii) Whether the objections to maintainability based on trust representation defeat the revision at the threshold?

7. Analysis:

7.1. Scope and structure of Section 164 BNSS, 2023:

Section 164 BNSS, 2023, (successor to Section 145 Cr.P.C., 2023) is a narrow, preventive jurisdiction enabling the learned Executive Magistrate to avert an apprehended breach of peace concerning land/water. Two textual anchors are vital: First, the learned Magistrate must, by a preliminary order, record grounds of satisfaction that a dispute likely to cause breach of peace exists, and require the parties to put in written statements as to actual possession (Section 164(1)). Second, upon enquiry, the learned Magistrate shall decide who was in actual possession on the relevant date and preserve that possession, leaving questions of title to the civil Court (Section 164(4)). The jurisdiction is neither punitive nor adjudicatory of title. Its object is preservation, not disruption, of actual possession.

7.2. On the record: Preliminary satisfaction & finding on possession:



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The impugned order extensively narrates the 2007 gift deeds, the 2010 cancellation, the earlier withdrawal of the civil suit, and the present pendency of O.S. No.20 of 2024 and O.S. No.33 of 2024. However, the order does not disclose a distinct preliminary order under Section 164(1) recording specific grounds of satisfaction about imminent breach of peace, nor does it extract or analyse written statements confined to actual possession. Critically, the order does not return a categorical finding on which party was in actual possession on the relevant date. Instead, the Sub-Collector has restrained both sides from entering the properties. This approach inverts the statute. When the legislature requires a possession-finding and preservation of that possession till civil rights are decided, an omnibus direction that neither party shall enter amounts to ejecting both, a course not contemplated by Section 164.

7.3. *Effect of pending civil suits:*

Pendency of a civil suit is not, by itself, a bar to action under Section 164 BNSS, 2023. Yet, when civil Courts are seized of title/possession and interlocutory reliefs are open to the parties, the learned Executive Magistrate must be doubly circumspect to avoid trenching upon what is essentially a civil field. At the very least, he



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must confine himself to identifying and maintaining actual possession on the cut-off date, leaving the parties to seek appropriate interim orders from the civil Court. Here, the donor/plaintiff has re-instituted civil suits but secured no interim injunction. The Sub-Collector's order, in substance, neutralises the B-party's asserted long possession and grants an outcome akin to an interim injunction albeit against both sides without undertaking the statutorily required possession enquiry. That is impermissible.

7.4. On Maintainability/Representation:

(i) The respondents contend that the Trust is not a juristic person, that no trustees appeared before the RDO, and that the affidavit here is by a person not shown as competent under the parent Trust Deed containing a lifetime Managing Trustee clause.

(ii) Two answers suffice at the threshold stage:

A proceeding under Section 164 BNSS, 2023, is not a civil suit; it can be initiated upon information of breach of peace; the *locus standi* of Order XXXI CPC, 1908, do not directly govern the criminal-preventive domain. In any event, the petitioners assert a Supplementary Deed



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dated 18.10.2022 and a Board Resolution (24th December) authorising representation. This Court need not conclusively adjudicate trusteeship or title issues within this revision. The narrow question is whether the impugned section 164 order withstands statutory scrutiny. For the reasons recorded above, it does not. Therefore, I hold that the revision is maintainable and the technical objections to representation do not non-suit the petitioners in this criminal-preventive context.

7.5. Under such circumstances, I am of the considered opinion that, the statutory pre-conditions under Section 164(1) are not demonstrably satisfied by a proper preliminary order. The Sub-Collector has not decided actual possession as mandated by Section 164(4). The direction restraining both sides is antithetical to the preservative objective of Section 164. With civil suits (O.S. No.20 of 2024; O.S. No.33 of 2024) pending, the appropriate forum to regulate interim possession is the civil Court; the learned Executive Magistrate's role, if at all invoked, is limited to temporarily preserving the *status quo* of actual possession, not to eject both sides.

8.1. Accordingly, the order of the First Sub-Divisional



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Officer/Sub-Collector, Rajapalayam, in Na.Ka.No.A2/M.C.12/2024
dated 10.02.2025 is set aside.

8.2. In fine, the Criminal Revision Case is allowed on the following directions:

a) The parties are at liberty to pursue O.S. No.20 of 2024 (Sub Court, Srivilliputhur) and O.S. No.33 of 2024 (Principal District Judge, Virudhunagar at Srivilliputhur). The concerned civil Courts are directed to consider any pending/ future interlocutory applications relating to possession/ injunction on their own merits and, preferably, dispose of the I.As. within eight (8) weeks from the date of receipt of this order.

b) The jurisdictional police shall maintain peace and tranquility in the locality. Any complaint of intimidation, obstruction, or unlawful assembly shall be dealt with strictly in accordance with law.

c) If, subsequent to this order, there is fresh, tangible material disclosing a real and proximate likelihood of breach of peace, it is open to the competent Executive Magistrate to initiate proceedings afresh in strict conformity with Section 164 BNSS, only after issuing a speaking preliminary order under section 164(1) and undertaking a focused



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enquiry confined to actual possession under section 164(4). Any such exercise shall not trench upon issues of title which lie exclusively within the province of the Civil Court.

d) It is further made clear that nothing in this order shall be construed as an expression on the merits of title or permanent rights over the subject properties. All such issues are left open to be adjudicated by the respective Civil Courts in the pending suits.

9. In the given circumstances, the impugned restraint directing both sides to stay away was passed without the jurisdictional discipline that Section 164 BNSS, 2023, demands and, in effect, defeated its preservative character, especially when civil suits are already seized of the controversy. The order, therefore, cannot stand. The parties shall work out their rights before the civil forum, while peace is maintained by the State under the watch of the jurisdictional police.

10. Finally, the Criminal Revision Petition is allowed. No order as to costs. Consequently, connected miscellaneous petition is closed.

13.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes



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To

- 1.The Sub Divisional Magistrate/ Sub Collector,
Rajapalayam,
Virudhunagar District.
- 2.The Deputy Superintendent of Police,
Rajapalayam,
Virudhunagar District.
- 3.The Inspector of Police,
Rajapalayam South,
Virudhunagar District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

Sml

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