

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.333 of 2026

Arvind Singh S/O Ramlakhan Sharma R/O Village- Uphara, P.S- Uphara,
Distt.- Aurangabad, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar Old Secretariat, Patna- 800015.
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar Vikas Bhawan, Bailey Road, Patna- 800001.
3. The District Magistrate, Aurangabad. Bihar
4. The Sub-Divisional Magistrate, Daudnagar, Distt.- Aurnangabad. Bihar
5. The Circle Officer, Goh Circle, Distt.- Aurangabad. Bihar
6. Smt. Rammani Devi W/O Late Ram Parmod Sharma R/O Village- Baijalpur, P.S- Uphara, Distt.- Aurangabad.
7. Shri Vimlesh Sharma S/O Late Ramchandra Sharma R/O Village- Baijalpur, P.S- Uphara, Distt.- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prince Kumar Mishra, Advocate Mr. Ujjwal Kant Panday, Advocate Mr. Utkarsh Pathak, Advocate
For the Respondent/s	:	Mr. Subhash Pd. Singh, GA-3 Mrs. Kiran Kumari, AC to GA-3

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 19-06-2026

The petitioner has filed the present petition for grant
of following relief(s):-

"a) For issuance of a writ in the nature of
Certiorari or any other appropriate writ
quashing and setting aside the impugned
dated 10.09.2025 passed by the Sub-
Divisional Magistrate, Daudnagar in Case



No. 153/2025 under Section 163 BNSS, along with all consequentil orders, including the covert conversion to Section 164 BNSS, and declare the said order to be non est in law, having been passed prior to and independent of the investigation report dated 09.12.2025, and therefore vitiated by non-application of mind and procedural fraud.

b) Issue a writ of Mandamus or any appropriate writ, order or direction directing the Respondents to grant appropriate compensation to the Petitioner for illegal deprivation of his lawful fishery business and livelihood on account of arbitrary, mala fide and unconstitutional actions of the Respondents, resulting in violation of Articles 14, 19(1)(g) and 21 of the Constitution of India.

c) Declare that the conversion of the proceedings from Section 163 BNSS to Section 164 BNSS, without notice and opportunity of hearing, is illegal, null and void, and that any order passed pursuant thereto has no legal effect.

d) Issue a writ of Mandamus or Prohibition directing the Respondents to restore the status quo ante by removing all encumbrances or restraints affecting the Petitioner's 4.4 acres of fishery land and to permit the Petitioner to carry on his lawful



occupation without hindrance.

e) For any other relief(s) as your Lordship deem fit and proper in the facts and circumstances of the case, including costs of the petition."

02. Learned counsel for the petitioner submits that the petitioner has taken the land in question in lease from one Ranjeet Kumar Singh for 20 years. The petitioner has taken a loan for doing work of fishing and has dug a pond on the said land. The petitioner entered into an agreement after ascertaining the fact that a partition by metes and bounds has taken place between the co-sharers from more than 50 years ago and there has been no dispute since then over the land in question. However, one of the co-sharers initiated a proceeding under Section 163 of BNSS against the petitioner and the learned Sub-Divisional Magistrate, Daudnagar in Case No. 153/2025 issued prohibitory orders against the parties and restrained the parties from going to the land in question vide order dated 18.07.2025. Thereafter, the petitioner appeared before the learned SDM and placed his side of story supported with documents. Though the learned SDM recorded all the submission of the petitioner, still the learned SDM gave a finding that there was dispute over right, title and possession between the parties with regard to the land in question and there was possibility of breach of peace.



The learned SDM also recorded that for the adjudication, proper evidence needs to be adduced which was not possible within short span under the provisions of Section 163 BNSS and thereafter, converted the proceeding into 164 BNSS. Learned counsel further submits that the impugned order infringes upon the rights of the petitioner as his livelihood depends upon his fishing work and fishes are dying as they are not being attended. So, this Court could intervene under Article 226 of the Constitution of India and learned counsel referred to the case of ***Gulam Abbas & Ors Vs. State of U.P. in (1982) 1 SCC 71***, paragraph 23 and 24 in support of his contention. Learned counsel also submits that the petitioner is being prevented from going to the land in question in the garb of order dated 18.07.2025 passed by learned SDM, Daudnagar in Case No. 153/2025 though the orders have been passed for conversion of proceeding into 164 BNSS. Learned counsel further submits that after passing of the order dated 18.07.2025, the same respondent, i.e., respondent no. 6 has filed another application for initiation of proceeding under Section 163 BNSS and the learned SDM has again instituted Case No. 263/2025 for the same land in question and initiation of consecutive proceeding is clearly abuse of the process of law when a proceeding under



Section 164 BNSS is still pending. In the said case the Station House Officer, Uphara has submitted a report before the learned SDM that separate report was being sent for initiation of proceeding under Section 126 BNSS and has also submitted that with regard to disputed land both the parties were earlier restrained during the proceeding under Section 163 BNSS. Proceeding under Section 164 BNSS is still pending. Learned counsel, thus, submits that in the light of this fact, the petitioner is being restrained from going to the land in question and his livelihood is at stake and his fishes would die in such condition.

03. Perused the records.

04. From perusal of record I find that the proceeding initiated in Case No. 153/2025 under Section 163 BNSS was at the instance of respondent no. 6, who claimed that the land in question was ancestral land and the mutation was running in the name of her grandfather. She also claimed that certain observations were made by DCLR in Land Dispute Resolution Case No. 51/2022-23 that the agreement entered into by the petitioner was illegal and ineffective and the petitioner was also restrained from going to the disputed land.

05. On the other hand, the petitioner claims the land on the basis of lease agreement for 20 years from one Ranjeet



Kumar Singh and further submissions have been made before the learned SDM that the land in question specifically belongs to Ranjeet Kumr Singh and other co-sharers are not having any share in the said land. On the basis of claim and counter claim of the parties and the materials placed before it, the learned SDM went on to convert the proceeding under Section 164 BNSS. The said order is a revisable order and the same ought not be interfered with under the writ jurisdiction. Bare perusal of language of Section 397 CrPC/438 BNSS which reads as under:-

"Calling for records to exercise powers of revision.- (1) High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding. Sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.



Explanation.- All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.

(2) The powers of revision conferred by Sub-Section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them."

Since the order dated 10.09.2025 is final order converting the proceeding from Section 163 BNSS to Section 164 BNSS and no appeal lies against such order revision would lie in terms of provisions of Section 397 CrPC/438 BNSS. Therefore, the instant writ petition could not be entertained for the reason that there is alternative and equally efficacious remedy available to the petitioner.

06. So far as the submission of learned counsel for the petitioner about the petitioner being restrained from going to the land in question due to promulgation of order dated



18.07.2025 in Case No. 153/2025 by learned SDM is concerned, I do not think the same should give any trouble to the petitioner for the reason that the order passed under Section 163 BNSS could not remain for more than two months from the making thereof. Therefore, as on date there is no prohibitory order against the petitioner.

07. With the aforesaid observation, the present writ petition is disposed of. At the same time, learned SDM would also take note of the fact that for the same land, a proceeding was initiated under Section 163 BNSS earlier which has been converted under Section 164 BNSS and the learned SDM would take step for disposal of the proceeding under Section 164 BNSS as the order has been passed on 10.09.2025 fixing the next date for 30.12.2025 but the proceeding under Section 164 BNSS has not been concluded.

.08. At this stage, learned counsel appearing on behalf of the State-respondents submits that in case of any future dispute, any party can approach the administration for maintenance of peace.

. 09. It is made clear that this Court has not passed any order preventing any of the parties from approaching the authorities in case of any breach of peace. This Court only



clarified that the order dated 18.07.2025 has also lost its effect in terms of Section 163(4) BNSS. Further, this Court has directed the learned SDM to take note that the other side, i.e., respondent no. 6 has again filed an application before the learned SDM for initiation of proceeding under Section 163 BNSS. It goes without saying that the parties are at liberty to take all these issues before the learned SDM to establish their case.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.06.2026
Transmission Date	NA

