



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CRM-M-27970-2026 (O&M)**

**Reserved on : 13.08.2026.**

**Pronounced on : 26.08.2026.**

**Uploaded on: 26.08.2026.**

**MAHENDER SINGH AND ORS**

....Petitioners

V/s

**STATE OF HARYANA AND ORS**

....Respondents

**CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Argued by: Mr. Akshay Jindal, Senior Advocate with  
Ms. Amyia Malhotra, Advocate and  
Ms. Kalyani Tehri, Advocate  
for the petitioners.

Mr. Amit Sahni, Addl. A.G., Haryana  
for respondents No.1 to 5-State.

Mr. Sanjiv K. Aggarwal, Advocate  
for respondents No.6 and 7.

Mr. Sandeep Berwal, Advocate  
for the applicant in CRM-28054-2026.

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**VIKRAM AGGARWAL, J.**

The instant petition, preferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short the "BNSS") assails order dated 22.04.2026 (Annexure P-1) passed by the Court of Additional Sessions Judge, Panipat, whereby the revision petition preferred against order dated 13.04.2026 (Annexure P-2) passed by the Sub Divisional Magistrate, Israna under Section 164 BNSS, was dismissed. Vide order dated 13.04.2026, the Court of Sub Divisional Magistrate, Israna had allowed the application filed under Section 164 BNSS by respondents No.6

and 7 and had appointed Tehsildar, Madlauda as Superdar on the land in dispute.

2. The facts, as emanating from the petition are that the dispute between petitioners No.1 and 2 (Mahender Singh and Sukhchain) and respondents No.6 and 7 (Jitender and Narender) is with regard to land measuring 69 Kanals 7 Marlas (fully described in the petition) situated in the Revenue Estate of Village Joshi, Tehsil Madlauda, District Panipat (hereinafter referred to as 'the land in dispute').

2.1 It has been averred in the petition that respondents No.6 and 7 had got a decree dated 04.09.2019 passed in their favour with regard to the land in dispute pursuant to a suit having been filed by them against petitioners No.1 and 2. An attempt was also made to get their names incorporated in the revenue record on the basis of the said decree but the same was declined by the revenue authorities on the ground that the land in dispute was *shamlat deh*. An execution petition was also filed but the same was dismissed by the executing Court on 25.10.2023 (Annexure P-4) on the ground that the judgment and decree dated 04.09.2019 was not executable as the Civil Court did not have the jurisdiction to entertain the suit.

2.2 Against the said order dated 25.10.2023 (Annexure P-4), respondents No.6 and 7 filed CR-701-2026 before this Court which is stated to be pending adjudication (Annexure P-5)

2.3 It has also been averred that respondents No.6 and 7 had also filed a petition under Section 13A of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the 1961 Act') for declaring themselves to be the owners of the land in dispute. However, the said petition was also dismissed vide order dated 03.03.2022 (Annexure P-

6).

2.4 It has been averred that in 2023, the Gram Panchayat of Village Joshi also filed a civil suit challenging the decree dated 04.09.2019 and the same is pending adjudication.

2.5 It has been averred that despite multiple Courts having rejected the claim of respondents No.6 and 7, they instituted a complaint to the police department on 16.02.2026, alleging that the petitioners were threatening to kill them and were restraining them from cultivating the land.

2.6 It has been averred that without going through the facts of the case, *Kalandra* under Section 164 of the BNSS (Annexure P-8) was presented before the SDM, Israna.

2.7 Vide order dated 13.04.2026, the said *Kalandra* was decided by the Court of SDM and Tehsildar Madlauda was appointed as Superdar. He was also directed to get the standing crops harvested.

2.8 A revision petition was preferred by the petitioners against the said order but the same was dismissed by way of the impugned order dated 22.04.2026, leading to the filing of the present petition.

3. Reply by way of affidavit of the Deputy Superintendent of Police, Panipat was filed on behalf of respondents No.4 and 5 essentially giving the facts. It has been averred that the complaint dated 24.06.2025 (Annexure R-1) submitted by petitioners No.1 and 2 was inquired into and the allegations were found to be of a civil nature. Accordingly, the same was closed vide inquiry report dated 29.07.2025.

3.1 Subsequently, complaint dated 29.10.2025 (Annexure R-2) was filed by respondents No.6 and 7 which was inquired into. During the pendency of the said complaint, another complaint dated 16.02.2026

(Annexure R-3) was filed by respondents No.6 and 7. These complaints were inquired into and a *Kalandra* under Section 164 of the BNSS was submitted. It has been averred that the police authorities neither adjudicated upon the title nor declared possession of either party, as the same falls exclusively within the jurisdiction of the competent Civil/Revenue Courts and Receiver was appointed in exercise of the discretion of the Executive Magistrate.

3.2 The details of the civil cases pending between the parties have been given in paragraph No.5 of the said reply:-

*“That it is pertinent to mention here that following civil cases are pending between the parties to the best of knowledge of the enquiry officer:-*

- (i) Civil Revision No. 701-2026, titled as "Jitender and Another Vs Mohinder Singh and Others" wherein notice of motion has been issued and is now pending before this Hon'ble Court, for 01.09.2026. True Copy of order dated 10.02.2026 is annexed herewith as Annexure R-4.*
- (ii) Civil Suit No. 1162-2023, titled as "Gram Panchayat, Village Joshi through its Panch Sh. Sushil Kumar S/o Preet Singh Vs 1) Jitender S/o Zile Singh S/o Sher Chand, 2) Narender Singh S/o Zile Singh S/o Sher Chand, 3) Mohinder Singh So Sh. Harmail Singh, 4) Sukhchain S/o Sh. Harmail. The said case is now pending before the Ld. C.J (S.D), Panipat for 03.07.2026 for reply. True Copy of last order dated 24.04.2026 is annexed herewith as Annexure R-5.*
- (iii) Civil Appeal No. 69 of 2026, titled as “Jitender Singh & Others Versus Mohinder Single & Others” pending before Ld. ASJ, Panipat and is fixed for 12.11.2026.”*

4. Certain documents were also placed on record by respondents No.6 and 7, which include a suit for declaration filed by respondents No.6

and 7 against the petitioners No.1 and 2 qua the land in dispute (Annexure R-6/1), decree dated 04.09.2019 (Annexure R-6/2), agreement to sell (Annexure R-6/3) and sale deed (Annexure R-6/4).

5. Subsequently, another short reply by way of affidavit of Sh. Virender Kumar, Tehsildar, Madlauda was also filed which also essentially gives the facts and also states that there was a threat to law and order.

6. Learned counsel for the parties were heard.

7. Learned Senior Counsel representing the petitioners strenuously urged that the impugned orders are not sustainable. The order passed by the SDM and that passed by the learned Additional Sessions Judge were referred along with other documents on record. The basic argument which was raised was that once litigation as regards title and possession was pending, no order under Section 164 BNSS could have been passed. In support of his contentions, learned Senior Counsel placed reliance upon the judgments titled as *Ashok Kumar Vs. State of Uttarakhand and others, 2013 (1) RCR (Criminal) 961*; *Puran Singh Vs. Sri. Krishan & Ors., 2025 (2) RCR (Criminal) 587*; *Gian Chand and others Vs. State of Haryana and others, 2005 (3) RCR (Criminal) 958*; *Amresh Tiwari Vs. Lalta Prasad Dubey and another, 2000 (2) RCR (Criminal) 614*; *Mohd. Abid & Ors. Vs. Ravi Naresh & Ors., 2022 SCC Online SC 2416*; *Prakash Chand Sachdeva Vs. State and another, 1994 (3) RCR (Criminal) 217* and *Vikash Singh and another Vs. State of Haryana and another, 2026 NCPHHC 57753 (Criminal Miscellaneous No.M-45210 of 2024 decided on 17.04.2026)*.

8. *Per contra*, it was submitted by learned State counsel and learned counsel representing respondents No.6 and 7 that there is no illegality in the impugned orders. It was submitted that mere pendency of a

civil suit would not be a ground for dropping proceedings under Section 145 Cr.P.C. (164 BNSS). Reference was made to the decree dated 04.09.2019, the sale deed executed by petitioners No.1 and 2 in favour of respondents No.6 and 7 and other documents on record and it was submitted that the powers were rightly exercised by the authorities. In support of his contentions, learned counsel for respondents No.6 and 7 placed reliance upon the judgments titled as ***Prakash Chand Sachdeva Vs. State and another, 1994 (3) RCR (Criminal) 217; Davinder Kaur and others Vs. State of Punjab and others, 2024 NCPHHC 32646 (CRM-M-23660-2018, decided on 06.03.2024); Ram Avtar and another Vs. State of Haryana and others, 2013 (3) RCR (Criminal) 323; Rajan Kumar Manchanda Vs. State of Karnataka, 1988 (2) RCR (Criminal) 662; Gajraj Vs. Ajay Raghav @ Bobby and others, 2024 NCPHHC 125417 (CRM-M-51428-2019, decided on 18.09.2024) and Manjit Singh and others Vs. State of Punjab, 2024 NCPHHC 15114 (CRM-M-48517-2023, decided on 05.02.2024).***

9. I have considered the submissions made by learned counsel for the parties.

10. The law is fairly well settled on the subject and needs no elaborate discussion. Where, the dispute is not as regards the right to possession but is with regard to the question of possession i.e. who is in possession, proceedings under Section 145 Cr.P.C. (164 BNSS) can be initiated. But where the ownership is disputed and there is a dispute as with regard to the right to possession, proceedings under Section 145 Cr.P.C. should not normally be initiated. The basic judgment on the subject is the decision of the Apex Court in the case of ***Ram Sumer Puri Mahant Vs. State of U.P., AIR 1985 SC 472.***

11. In the case of *Ashok Kumar (supra)*, the Apex Court explained the scope of Section 145 and 146 Cr.P.C:-

*12. The above order would indicate that the SDM has, in our view, wrongly invoked the powers under Section 146(1), Criminal Procedure Code. Under Section 146(1), a Magistrate can pass an order of attachment of the subject of dispute if it be a case of emergency, or if he decides that none of the parties was in such possession, or he cannot decide as to which of them was in possession. Sections 145 and 146 of the Criminal Procedure Code together constitute a scheme for the resolution of a situation where there is a likelihood of a breach of the peace and Section 146 cannot be separated from Section 145, Criminal Procedure Code. It can only be read in the context of Section 145, Criminal Procedure Code. If after the enquiry under Section 145 of the Code, the Magistrate is of the opinion that none of the parties was in actual possession of the subject of dispute at the time of the order passed under Section 145(1) or is unable to decide which of the parties was in such possession, he may attach the subject of dispute, until a competent court has determined the right of the parties thereto with regard to the person entitled to possession thereof.*

*13. The ingredients necessary for passing an order under Section 145 (1) of the Code would not automatically attract for the attachment of the property. Under Section 146, a Magistrate has to satisfy himself as to whether emergency exists before he passes an order of attachment. A case of emergency, as contemplated under Section 146 of the Code, has to be distinguished from a mere case of apprehension of breach of the peace. The Magistrate, before passing an order under Section 146, must explain the circumstances why he thinks it to be a case of emergency. In other words, to infer a situation of emergency, there must be a material on record before Magistrate when the submission of the parties filed,*

*documents produced or evidence adduced.*

**14.** *We find from this case there is nothing to show that an emergency exists so as to invoke Section 146(1) and to attach the property in question. A case of emergency, as per Section 146 of the Code has to be distinguished from a mere case of apprehension of breach of peace. When the reports indicate that one of the parties is in possession, rightly or wrongly, the Magistrate cannot pass an order of attachment on the ground of emergency. The order acknowledges the fact that Ashok Kumar has started construction in the property in question, therefore, possession of property is with the appellant - Ashok Kumar, whether it is legal or not, is not for the SDM to decide.*

12. In the case of *Amresh Tiwari (supra)*, the Apex Court held that there is no broad proposition of law that in every case where a civil suit is filed, proceedings under Sections 145 Cr.P.C. would not lie. It was held that only in cases where the civil suit was for possession or for declaration of title and where relief regarding protection of the property could be applied for and granted by the Civil Court that proceedings under Section 145 Cr.P.C. should not be allowed to continue:-

**14.** *Reliance has been placed on the case of Jhummal alias Devandas Vs. State of Madhya Pradesh & others, 1988 (1) RCR (Criminal) 428: 1988 (4) SCC 452. It is submitted that this authority lays down that merely because a civil suit is pending does not mean that proceedings under Section 145 Criminal Procedure Code, 1973 should be set at naught. In our view this authority does not lay down any such broad proposition. In this case the proceedings under Section 145 Criminal Procedure Code, 1973 had resulted in concluded order. Thereafter the party, who had lost, filed civil proceedings. After filing the civil proceedings he prayed that the final order passed in the Section 145 proceedings be*

*quashed. It is in that context that this Court held that merely because a civil suit had been filed did not mean that the concluded Order under Section 145 Criminal Procedure Code, 1973 should be quashed. This is entirely a different situation. In this case the civil suit had been filed first. An Order of status quo had already been passed by the competent civil court. Thereafter Section 145 proceedings were commenced. No final order had been passed in the proceedings under Section 145. In our view on the facts of the present case the ratio laid down in Ram Sumers' case (supra) fully applies. We clarify that we are not stating that in every case where a civil suit is filed, Section 145 proceedings would never lie. It is only in cases where civil suit is for possession or for declaration of title in respect of the same property and where reliefs regarding protection of the property concerned can be applied for and granted by the civil court that proceedings under Section 145 should not be allowed to continue. This is because the civil court is competent to decide the question of title as well as possession between the parties and the orders of the civil Court would be binding on the Magistrate.*

13. Reverting to the facts of the case, no doubt, a compromise was arrived at between petitioners No.1 and 2 and respondents No.6 and 7 on the basis of which decree dated 04.09.2019 was passed. Subsequently, a sale deed was also executed. However, the Gram Panchayat of Village Joshi filed third party objections when respondents No.6 and 7 filed an execution petition. The contention was that the suit property is *shamlat deh* of Village Joshi. The execution petition was accordingly dismissed and revision petition against the said order is pending.

14. A petition under Section 13A of The Punjab Village Common Lands (Regulation) Act, 1961 was also filed by respondents No.6 and 7

against the Gram Panchayat, seeking declaration of ownership of half share of the land in dispute and other lands which was also dismissed by the Court of Collector, Panipat on 03.03.2022.

15. The Court was also apprised during the course of arguments that a suit for injunction was also filed by respondents No.6 and 7 and that the application for the grant of ad-interim injunction was dismissed vide order dated 11.02.2026 (Annexure P-11) and it was held that respondents No.6 and 7 had not been able to prove their possession over the land in dispute and that the revenue record showed entries of *shamlat deh hasab rasad rakba wasi deh*. It was stated by learned counsel representing respondents No.6 and 7 that an appeal has been filed against the said decision which is pending.

16. The position which, therefore, emerges is that till now neither the title nor the right to possession of the property is clear. The stand of the Gram Panchayat is that the compromise between petitioners No.1 and 2 and respondents No.6 and 7 was not valid. Respondents No.6 and 7 are supporting the attachment proceedings, whereas petitioners are opposing it.

17. The SDM, while attaching the land exercising powers under Section 164 BNSS, held as under:-

***“After hearing the arguments advanced by the counsels for the first and second parties and observing the File, I have come to the conclusion that both the parties claim their possession on the said land. In reference to the above, as per the investigation report by ASI Rana Pratap police station Madlauda, from the statements recorded by the complainant and the respondent and the documents/evidences presented of the land purchased from the complainant, it has been found that the complainant Mahender Singh and Sukhchain Singh***

*sold the land to the respondent and his brother Narender Singh as per the agreement dated 31.05.2019. On 18.09.2019, decree has been found to have been executed in the Hon'ble Court of Jyoti Grover C.J. Junior Division, Panipat in the name of the respondents. The case number for which is CS-914-2019. Complainant Mahender Singh and Sukhchain Singh were found to have registered the sale deed of land in the names of the respondents on 26.09.2019. However, the sale deed was cancelled due to the purchased land being Shamlat land. Its number is 1314/1. On 23.01.2020, Mahender Singh and Sukhchain Singh were found to have again executed an agreement in the name of respondents Jitender and Narender. There is tension and dispute between both the parties regarding the possession of the said land. Furthermore, Gram Panchayat Joshi has also filed a case in the Hon'ble High Court of Punjab and Haryana, Chandigarh, for the ownership of the said land, the next date of which is 01.09.2026. Keeping in view the land dispute between both the parties, and the increasing tension between both the parties over the said land in the past, there is a possibility of conflict and disturbance of peace between the two parties over the said land. Therefore, keeping in view the above mentioned circumstances, the land comprised in Khewat No. 149, Khatauni No. 213, 214 is attached under Section 164 (1) B.N.S.S. and under Section 165 (1) B.N.S.S., the Tehsildar Madlauda is appointed as Superdar on the said land and Tehsildar Madlauda is directed to get the standing crop on the said land harvested under his supervision on the spot by taking police assistance from the SHO, Madlauda and the Secretary, Market Committee, Madlauda will ensure that the said harvested crop is sold under his supervision and the entire amount of the crop received will be deposited in the government treasury by the Tehsildar, Madlauda, till the decision regarding the above land is not given by the Hon'ble*

***High Court of Punjab and Haryana Chandigarh in case number CR No.701 of 2026, case titled as Jitender etc. vs Mohinder Singh etc., the above land will be kept attached under 164 (1) BNSS The file be consigned to the record room after due compliance.”***

18. It, therefore, emerges that apart from the petitioners and respondents No.6 and 7, the Gram Panchayat is also interested in the suit land, since they state that it is *shamlat deh*. Petitioners No.1 and 2 and respondents No.6 and 7 are, in any case, litigating about the possession of the suit land. The Gram Panchayat is litigating about the title of the suit land. The SDM recorded that there was a possibility of conflict and disturbance between the two sides and, therefore, the Tehsildar Madlauda was appointed as a Superdar. He was also directed to get the standing crops harvested under his supervision by taking police assistance and it was further ordered that the entire amount would be deposited in the Government treasury till the decision is not given by this Court in CR-701-2026.

19. It has also come on record that the land has further been leased out by the Tehsildar to the applicant, who sought to be impleaded as a respondent in the present petition. The application was not adjudicated upon since arguments were heard on merits in the main case only.

20. Now, the situation which arises is that there are litigations also pending as regards the land and neither the title nor the issue of possession is clear. The nature of the land is also not clear since the Gram Panchayat says it is *shamlat* land. Under the circumstances, the SDM, Israna took a very practical view and attached the land under Section 164 BNSS and appointed Tehsildar Madlauda as a Receiver. Standing crops were harvested and the amount recovered from its sale was ordered to be deposited in the treasury.

The land has further been leased as well which is also not illegal since the land cannot be permitted to become *banjar*.

21. If the matter is examined from all angles, this Court arrives at the conclusion that no illegality was committed by the SDM, Israna in attaching the land under Section 164 BNSS. The Court of Additional Sessions Judge, Panipat also noticed that both parties were disputing the possession of each other and wanted to harvest the crop on the spot despite none of them having a clear title as yet and litigation as regards title and possession being pending. It was rightly held that, therefore, no clear cut finding of title or possession could be given in favour of either party and therefore, rightly upheld the attachment proceedings. I do not find any illegality in the aforesaid orders, warranting interference in this petition especially exercising powers under Section 528 BNSS which may amount to a second revision.

22. For the foregoing reasons, the present petition is found to be devoid of merit and is accordingly dismissed.

23. Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)  
JUDGE

**Pronounced on 26.08.2026**

*Mani Kumar*

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No