COURT OF THE SUB-DIVISIONAL MAGISTRATE, ATHAMALLIK

C.M.C. No. 02 of 2026 (Section 163, BNSS)

Kuni Behera … Petitioner

versus

Supari Munda and others … Opposite Parties

Decided on 29 April 2026

Bharatiya Nagarik Suraksha Sanhita, 2023 – Section 163 (old s.144 CrPC) – Civil dispute over title and possession. Section 163 is an emergency power to prevent a breach of peace. It cannot be used to decide title or possession, or to give what is in effect a permanent injunction. Where the dispute turns on the validity of a sale deed and the shares of joint-family co-sharers, and the immediate threat has subsided, the interim order must be vacated and the parties left to the civil court, with the police directed to keep the peace (*Surendra Rout v. Executive Magistrate, Cuttack*, 2010 (1) OLR 19).

Result: Interim order vacated; parties relegated to the civil court; proceeding dropped.

ORDER

1. ..... Petitioner

2. The brief facts of the case are that the Petitioner, Kuni Behera, filed a petition under Section 163 of the BNSS alleging that the Opposite Parties (O.Ps) forcibly entered her recorded land (Khata No-122/109, Plot No-601, Mouza-Solanda) on 15.03.2026 and attempted to raise a permanent structure. The Petitioner claimed peaceful possession of the land since its purchase in 2012. Apprehending a breach of peace and bloodshed, this Court initiated proceedings and issued an interim stay on construction activities

3. During the course of the inquiry, reports were obtained from the Tahasildar, Kishorenagar, and the IIC, Handapa. The findings are summarized as follows:

4. Police Report (IIC, Handapa): Confirmed an imminent threat to public tranquility and recommended the execution of bonds under Section 126 BNSS to prevent rioting or loss of life

5. Revenue Report (Tahasildar, Kishorenagar): Revealed that the O.Ps have encroached upon 0.007 acres of the land and have also constructed a structure encroaching upon adjacent Government land

6. On 07.04.2026 and 22.04.2026, both parties appeared. The O.Ps stated they have stopped construction and are maintaining peace. The Petitioner acknowledged the halt in construction but prayed for the removal of the unauthorized structure and restoration of the land to its original status.

7. The nature of this dispute is primarily a civil contest over title and possession among co-sharers and a purchaser. The Orissa High Court has consistently held that the Magistrate's jurisdiction under emergency provisions (Sec 144 CrPC / 163 BNSS) is not intended to adjudicate civil titles or to oust a party in possession.

> *"The law is well settled by the Hon'ble Orissa High Court in Surendra Rout & Others v. Executive Magistrate, Cuttack, 2010 (1) OLR 19, where it was held that a Magistrate cannot decide the question of title or issue a permanent restraint order in a proceeding under Section 144 CrPC*

(now Sec 163 BNSS). This Court finds that the present dispute is essentially civil in nature and should be adjudicated by a Civil Court of competent jurisdiction."

8. 5. Findings

9. The dispute involves the validity of a 2010 Sale Deed and the rights of joint family co-sharers. The IIC's report and the R.I.'s findings indicate the petitioners are not in peaceful possession. While an initial apprehension was noted, the IIC has already warned both parties to maintain peace, and the situation is under watch.

10. In view of the detailed inquiry reports and the clearly civil nature of the dispute regarding the validity of the Sale Deed and joint family shares, this Court finds that a continued restriction under Section 163 BNSS is not the appropriate remedy.

11. The interim stay order promulgated on March 05, 2026, is hereby vacated.

12. Both parties are directed to approach the Civil Court of competent jurisdiction for the recovery/partition of possession.

13. The IIC, Handapa, is directed to ensure that no breach of peace occurs in the locality. If any party attempts to use force, the police shall take independent action under the preventive sections of the BNSS.

14. The case is accordingly dropped.

15. Pronounced in the open court today, the 29th of April, 2026.

Sd/-

Sub-Divisional Magistrate, Athamallik

Odisha Revenue Laws · Revenue Court Orders. Reported for the reference of revenue officers; citations checked and corrected by the editor. The order applies to its own facts; check the current law before relying on it.