



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

S.B. Criminal Miscellaneous (Petition) No. 10651/2025
CNR: RJHC011166472025 | URN: CRLMP / 18936U / 2025

Harmeet Kaur Alias Bibi W/o Amritpal Singh, Aged About 30
Years, Gurudwara Sukha Singh Mahtab Singh, Goluwala Tehsil
Pillibanga District Hanumangarh

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent



For Petitioner(s) : Mr. Vikas Balia, Sr. Advocate
assisted by Mr. Nitin Goklani
Mr. RDSS Kharlia
Mr. DS Thind

For Respondent(s) : Mr. Dharendra Singh, Sr. Advocate
assisted by Ms. Priyanka Borana
Mr. Rajendra Kumar Soni
Mr. Deepak Chaudhary, AAG assisted
by Mr. Vikram Singh Rajpurohit, DyGA

Present-in-Person : Mr. BS Aditya, SP, PS Hanumangarh
Ms. Rajandeep Kaur, CI, SHO, PS
Goluwala.

HON'BLE MR. JUSTICE FARJAND ALI

Order

DATE OF CONCLUSION OF ARGUMENTS : 22/07/2026
DATE ON WHICH ORDER IS RESERVED : 22/07/2026
FULL ORDER OR OPERATIVE PART : Full Order
DATE OF PRONOUNCEMENT : 12/08/2026

REPORTABLE

BY THE COURT:-

Temple-going is for the purification of the soul. The worshipper draws the best out of himself. In greeting a living being, he may draw the best out of the person greeted, if the greeting is selfless.

A living being is more or less fallible like oneself. But in the temple, one worships the living God, perfect beyond imagination. Letters written to living persons often end in heart-breaking, even when they are answered, and there is no guarantee of their being always answered.



*Letters to God who, according to the devotee's imagination, resides in temples, require neither pen nor ink nor paper, not even speech. Mere mute worship constitutes the letter which brings its own unfailing answer. **The whole function is a beautiful exercise of faith.***

*Here there is no waste of effort, no heart-breaking, no danger of being misunderstood. **The writer must try to understand the simple philosophy lying behind the worship in temples or mosques or churches.** He will understand my meaning better if he will realize that **I make no distinction between these different abodes of God. They are what faith has made them. They are an answer to man's craving somehow to reach the UNSEEN.**¹*

GRIEVANCE

1. The instant criminal miscellaneous petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023², has been preferred by the petitioner assailing the order dated 18.11.2025 passed by the learned Additional Sessions Judge No. 2, Hanumangarh in Criminal Revision No. 176/2025, whereby the learned Revisional Court affirmed the order dated 03.10.2025 passed by the learned Sub-Divisional Magistrate³, Pilibangan under Sections 164 and 165 of the BNSS.

FACTS OF THE CASE

2. Briefly stated the facts of the case are that the petitioner, Bibi Harmeet Kaur, has been serving as the Mukhya Sewadar of Gurudwara Mehtabgarh Sahib since 2016 and been handling the management of the Gurudwara and its day-to-day affairs. A dispute arose between the petitioner and another Sikh group concerning the management of the Gurudwara, resulting in preventive proceedings and subsequent registration of F.I.R. Nos.

¹ The following passage from The Mahatma Gandhi's article published in his weekly journal, Harijan, on March 18, 1933.

² To be referred as "BNSS".

³ To be referred as "S.D.M.".



243/2025 and 244/2025 at Police Station Goluwala in connection with the incident dated 03.10.2025.

2.1 On the basis of a complaint submitted by the Station House Officer⁴, Police Station Goluwala alleging apprehension of breach of peace, the learned S.D.M., Pilibanga, vide order dated 03.10.2025, directed attachment of the Gurudwara premises and appointed the S.H.O. as Receiver under Sections 164 and 165 of the BNSS. Aggrieved by the said order, the petitioner preferred a Criminal Revision Petition under Section 438 of the BNSS, which came to be dismissed by the learned Additional Sessions Judge No. 2, Hanumangarh vide order dated 18.11.2025. Hence, the present petition has been preferred seeking quashing of the aforesaid impugned orders and all consequential proceedings, inter alia, on the ground that the attachment and appointment of Receiver were wholly unwarranted, arbitrary and contrary to the admitted position regarding the petitioner's possession and management of the Gurudwara.

SUBMISSIONS ON BEHALF OF THE PETITIONER

3. Learned counsel for the petitioner submits that the impugned orders dated 03.10.2025 and 18.11.2025 are mechanical, contrary to the record and suffer from non-application of mind. It is contended that the petitioner's possession and her status as Mukhya Sewadar of Gurudwara Mehtabgarh Sahib stand admitted from the complaint of the SHO itself, and therefore, the requisite

⁴ To be referred as "S.H.O".



conditions for invoking Sections 164 and 165 of the BNSS were not satisfied.

3.1 It is further submitted that the dispute, even if taken at its highest, relates to the management of the Gurudwara and not to land, water or boundaries, and thus falls outside the ambit of the aforesaid provisions. Learned counsel contends that there was neither any uncertainty regarding possession nor any emergent situation warranting attachment of the property and appointment of a receiver, particularly when the alleged miscreants had already been arrested. It is also submitted that the allegation of a dispute with local residents is unsupported by any material on record. Reliance has been placed upon the communication issued by the Shiromani Gurudwara Parbandhak Committee⁵ and the judgment in **Ashoknath Chela Kevalnath v. State of Rajasthan**⁶ to contend that the petitioner's possession could not have been disturbed in exercise of preventive jurisdiction. It is, therefore, submitted that the impugned orders, including the finding of the learned Revisional Court that possession was disputed, being contrary to the record, deserve to be quashed and set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

4. During the interaction, Mr. B.S. Aditya, Superintendent of Police, Hanumangarh and Ms. Rajandeep Kaur, S.H.O., Police Station Goluwala, District Hanumangarh, submitted that, pursuant to the direction dated 22.07.2026, the relevant documents pertaining to the dispute have been placed on record. The dispute

⁵ To be referred as "SGPC".

⁶ S.B. Criminal Misc(Pet.) No. 1949/2022.



commenced on 03.09.2025, whereafter the S.H.O. continuously monitored the situation and deputed police personnel to maintain law and order. Subsequently, upon registration of two FIRs on 03.10.2025, the S.H.O. submitted a complaint before the learned S.D.M., who, considering the prevailing circumstances, passed the order dated 03.10.2025 appointing a receiver. The relevant Roznamcha entries and complaints have been filed as Annexures C/R-1 to C/R-5 and the same have been taken on record.

OBSERVATION

5. Heard learned counsels appearing on behalf of the petitioner and respondent as well as learned AAG. Perused the impugned orders and material available on record.

6. Upon perusal of the material available on record, it emerges that the controversy pertains to the management and possession of the religious/spiritual property, namely, Gurudwara Mehtabgarh, over which rival groups are asserting their respective claims. The dispute appears to have arisen between the petitioner and another group of villagers though largely from Sikh community, with regard to the management and control of the said Gurudwara. It is further evident that an incident took place on 03.10.2025, when a group of persons allegedly attempted to enter the Gurudwara premises while carrying weapons. At the relevant time, the petitioner was present inside the Gurudwara, as she claims to have been managing its affairs since the year 2016. In relation to the said incident, FIR No.243/2025 came to be registered at Police Station Goluwala, District Hanumangarh, on the written report



submitted by ASI Vijay Singh, who was himself present at the spot in connection with the patrolling and security arrangements.

6.1 As per the contents of the FIR, at about 3:15 AM, a mob of approximately 50–60 persons, armed with lathis, swords, gandasis and spears, allegedly approached the rear gate of the Gurudwara and despite being restrained by the police personnel, attempted to gain entry into the premises by scaling the boundary wall. It is alleged that the members of the mob also used criminal force against the police personnel and obstructed them in the discharge of their official duties. The FIR further alleges that the mob intended to assault the petitioner and her associates present inside the Gurudwara, pursuant to which several persons sustained serious injuries. Seventeen persons were specifically named in the FIR, with Amritpal Singh, Akashdeep Singh and Surendra Singh @ Chhinda alleged to have led the mob; it was also alleged that Surendra Singh @ Chhinda forcibly snatched the mobile phone of Constable Sardul Singh, who was recording the incident. On the basis of the said report, offences under Sections 109(1), 121(1), 132, 331(6), 307, 223(b), 191(2), 191(3) and 190 of the Bharatiya Nyaya Sanhita, 2023⁷ were registered and investigation was set in motion.

6.2 It is further borne out from the record that, in respect of the very same incident dated 03.10.2025, another FIR bearing No. 244/2025 came to be registered at Police Station Goluwala, District Hanumangarh, on the report lodged by the petitioner

⁷ To be referred as "BNS".



herself. The said FIR was registered for the offences punishable under Sections 331(6), 307, 191(2), 191(3), 190, 127(2), 115(2), 223(b) and 61(2) of the BNS, alleging the commission of the aforesaid offences in connection with the occurrence in question.

OPINION

Background and the Prevailing Law and Order Situation

7. Upon a conjoint consideration of the material, the submissions advanced by learned counsel for the parties and the reports placed by the State, this Court finds that the controversy cannot be examined merely from the narrow perspective of an individual claim of possession over the premises in question. The larger issue which stares at the face of the Court is the prevailing law and order situation in the locality and the imminent possibility of further confrontation, violence and bloodshed in and around the religious premises.

7.1 It is not in dispute that the situation in the area has remained disturbed for the last several months and incidents of confrontation have been occurring with disturbing frequency. The material placed on record by the respondent-State specifically indicates that during the preceding two to three months, almost every day some incident or other connected with the dispute has been reported. The incident dated 03.10.2025, in which a sizeable group of persons allegedly attempted to enter the Gurudwara while being armed with lathis, swords, gandasis and spears, is itself a serious indication of the nature and intensity of the dispute. FIR No.243/2025 was registered on the report of ASI



Vijay Singh, who was himself present at the spot, whereas FIR No.244/2025 was registered on the report of the petitioner in respect of the same occurrence. The existence of two competing versions of the very same incident itself demonstrates the seriousness and sensitivity of the situation.

Claim of the Petitioner regarding Management of the Gurudwara

8. Learned counsel for the petitioner has submitted that the petitioner has been managing the affairs of the Gurudwara since the year 2016 and that she was appointed for such purpose by the SGPC.

8.1 The Court was also curious to ascertain as to what practice, if any, prevails in the State of Rajasthan with regard to the management and administration of Gurudwaras. In particular, the Court sought to ascertain whether there exists any statutory provision, rule, established practice, tradition or convention under which the managerial affairs of all Gurudwaras are required to be centrally administered by a committee constituted or appointed by the SGPC, or whether Gurudwaras situated in villages, towns and cities are generally established by the local devotees and members of the Sikh community from their own resources and are thereafter managed and administered by the local committee constituted for such purpose.

8.2 Upon the Court making a specific query in this regard, learned counsel appearing for the petitioner as well as learned Additional Advocate General were unable to point out or place



before the Court any statutory provision, rule, established practice, tradition or convention to suggest that the managerial affairs of every Gurudwara are necessarily required to be centrally controlled or administered by the SGPC, or that the SGPC alone has the authority to constitute or appoint the managing committee of a Gurudwara situated in any village, town or city.

8.3 In order to further satisfy itself and to verify the prevailing practice on the ground, the Court deemed it appropriate to seek the assistance of members of the Sikh community practising as Advocates before this Court. Accordingly, Mr. Devender Singh Thind, Mr. RDSS Kharlia and other learned members of the Bar of this Court were invited and the Court sought their assistance on the specific aspect as to whether the Gurudwaras situated in Jodhpur, or elsewhere in the State, are established and managed by the local devotees and members of the Sikh community, or whether their management is centrally undertaken by the SGPC. The response was unanimous and categorical. It emerged that there is no such statutory rule, established practice, tradition or convention under which the SGPC is required to constitute a managing committee for every Gurudwara situated in a village, town or city, nor is there any universal practice that the management of every Gurudwara in the country is centrally controlled by the SGPC. Rather, the prevailing practice, as explained to the Court, is that Gurudwaras are established by persons having faith and devotion in the religion and are, in several places, constructed from the contributions and resources



of the local devotees and members of the community. The management and day-to-day affairs are thereafter ordinarily looked after by a committee constituted locally for that purpose.

8.4 It was also categorically stated before the Court that there is no such rule or convention that the SGPC must itself constitute the managing committee of a Gurudwara situated in a particular village, nor that the local members of the Sikh community are precluded from establishing and managing a Gurudwara in accordance with their own local arrangements. Thus, upon consideration of the submissions made by the learned counsel for the parties and upon seeking assistance from members of the Sikh community practising before this Court, the Court finds no material to suggest the existence of any such statutory provision, rule, established practice, tradition or convention which mandates that the management of every Gurudwara must necessarily vest in or be centrally controlled by the SGPC.

Claim of SGPC over the property

9. Coming to the specific submission regarding the SGPC, learned Senior Counsel was unable to point out any statutory provision which would establish that the SGPC has control, ownership, managerial capacity or dominion over the land in question or that only a person appointed by the SGPC would necessarily acquire an indefeasible legal right to manage and remain in possession of every Gurudwara in the State of Rajasthan. Even if the contention of the petitioner is accepted at its highest, namely, that the SGPC has appointed her as a



manager, the same would, at best, concern the management of the religious institution. It would not, in the absence of a legally established source of title, automatically confer ownership or exclusive possessory rights over the underlying land.

9.1 The distinction between the institution and the property is therefore required to be maintained. The management of a Gurudwara cannot be equated with ownership or total control and possession of the land upon which the Gurudwara stands. The learned counsel for the petitioner could not demonstrate what legal dominion the SGPC possesses over the particular parcel of land, its boundaries or the construction standing thereon. The material placed before the Court, rather, indicates that the Gurudwara has been established and maintained with the participation and religious faith of the local community.

Management, Ownership and Possession: Distinction in Law

10. Be that as it may, even assuming, for the sake of argument, that the petitioner has been appointed by the SGPC for managing the affairs of the Gurudwara, such appointment, by itself, does not confer upon the petitioner any proprietary right or indefeasible right of possession over the land or the building in question. Management and ownership are two distinct concepts. The learned Senior Counsel appearing for the petitioner could not demonstrate before this Court any statutory provision, title document, conveyance, Government grant, inheritance, acquisition or any other legally recognised mode by which the SGPC has acquired ownership or dominion over the particular parcel of land on which



the Gurudwara is situated. No material has been brought on record to establish that the property in question is owned by the SGPC. This distinction assumes significance while considering the scope of preventive proceedings.

10.1 The jurisdiction exercised under Sections 164 and 165 of the BNSS is preventive in nature. The Magistrate is not called upon, in such proceedings, to finally adjudicate title or determine proprietary rights. At the same time, when the question of possession arises for the limited purpose of preventing breach of peace, the possession asserted must have some lawful foundation or legally recognisable basis. A person cannot convert mere physical presence, religious association, management or long-standing access into a proprietary or legally enforceable right over the property. The petitioner may have been regularly visiting the Gurudwara and may have been managing its affairs for a considerable period. Such facts may establish her association with the religious institution or her involvement in its management, but they cannot, by themselves, be equated with ownership of the land or with an absolute and exclusive right to exclude others from the premises. Possession of a private property ordinarily follows title, subject to the recognised exceptions in law. The position in respect of a religious place, however, requires a more careful appreciation of the nature and character of the property itself.

10.2 The distinction between a private property and a religious place assumes considerable significance while examining the question of possession and the right of entry. Had the dispute



related to an individual's private property, the matter would stand on an entirely different footing. In the case of private property, the general presumption is that a person other than the owner can enter the premises only with the express or implied permission of the owner or on the basis of a deemed permission arising from the nature or circumstances of such entry. Conversely, a third party cannot ordinarily claim an unrestricted right to enter or remain upon private property without such permission, express, implied or deemed. The position, however, is materially different in the case of a religious place. A place of worship, by its very nature and character, is not ordinarily governed by the concept of individual permission for entry. Subject to any duly prescribed and uniformly applicable restrictions, such as regulated timings or other lawful arrangements for maintaining order, a religious place is intended to remain accessible to persons irrespective of their religion, faith or denomination. In such a place, the very nature of its use carries with it an element of general accessibility, and the entry of a person cannot ordinarily be questioned merely on the ground that he belongs to a different religion or faith or that he has not obtained individual permission from any particular person. Thus, the distinction is not merely semantic but goes to the very manner in which the question of possession is required to be examined. The principles governing entry into and possession of, a private property cannot be mechanically applied to a religious place, where the character of the premises, its religious purpose and its intended accessibility to the general public necessarily





require the question of possession to be considered from a different perspective.

Faith is sacred but Possession is a question of law

11. A Gurudwara is not merely a piece of land or a building constructed upon a particular parcel of land. It is a place of worship and spiritual congregation. The central object of Sikh religious worship is the *Guru Granth Sahib*, which is respectfully installed and ceremonially placed upon the *Palki Sahib*. The devotees visit the Gurudwara primarily for *darshan, prayer, paath, kirtan, ardas, seva* and *participation in the religious activities* associated with the *Guru Granth Sahib*. The *Palki Sahib* is the sacred palanquin on which the *Guru Granth Sahib* is ceremonially carried or installed, and the sanctity attached to the *Guru Granth Sahib* is central to the religious character of the Gurudwara. The congregation may also participate in *langar* and other acts of *seva* and religious fellowship. Thus, the spiritual significance of the Gurudwara flows substantially from the sacred presence and religious practices carried on therein and not merely from the physical structure or the land upon which such structure stands. Therefore, the mere fact that a particular person has been visiting a particular Gurudwara for several decades, sitting there for hours every day, performing *seva* or otherwise remaining associated with the place cannot, without more, lead to the conclusion that such person has acquired dominion over the land or has become its lawful possessor in the proprietary sense.





11.1 There may be devotees who have been visiting the same temple, mosque, church, dargah or Gurudwara for 40 years or more. Their continued presence may undoubtedly demonstrate deep faith and religious attachment, but faith cannot be converted into a claim of ownership or exclusive possession over the religious property. The distinction is subtle but fundamental.

11.2 A devotee goes to a Gurudwara because of the sanctity of the *Guru Granth Sahib* and the religious and spiritual practices carried on there. The devotee's presence is an expression of faith; it is not, by itself, an assertion of dominion over the land. Likewise, the fact that a person has been permitted to manage the affairs of a religious institution for some period does not automatically make such person the owner or exclusive possessor of the property. Management is one thing; title and lawful possession are entirely different juridical concepts.

11.3 To illustrate the distinction, even this Court building, considered merely as a physical structure, derives its significance not from the bricks, stones or land upon which it stands, but from the judicial institution functioning within it. A person comes here because there is a Court, a Judge and proceedings to be heard; the mere physical structure does not constitute the essence of the institution. Similarly, the significance of a Gurudwara cannot be reduced merely to its walls, boundary or parcel of land. The spiritual and religious character of the institution is inseparably connected with the sacred object of worship and the religious activities performed therein.



11.4 The Court is, therefore, required to keep the land and the religious faith associated with the Gurudwara conceptually separate. The faith of the petitioner or of any other devotee may be genuine, deep-rooted and unquestionable; but such faith, however profound, cannot by itself establish dominion over the property. The fact that a person has remained at a religious place for a long period may establish religious association or management, but it does not, without a lawful source of right, establish title or exclusive possession.

Scope of proceedings under Sections 164 and 165 BNSS

12. It is imperative to discuss the precedents set by Hon'ble the Supreme Court concerning Sections 164 and 165 of BNSS and to fully comprehend the legal position, it is necessary to first reproduce these provisions, which are provided below for ready reference:-

"164. Procedure where dispute concerning land or water is likely to cause breach of peace.⁸

(1) Whenever an Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a specified date and time, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section, the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(3) A copy of the order shall be served in the manner provided by this Code for the service of a summons upon

⁸ Section 164 of BNSS.



such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The Magistrate shall then, without reference to the merits or the claims of any of the parties to a right to possess the subject of dispute, persue the statements so put in, hear the parties, receive all such evidence as may be produced by them, take such further evidence, if any, as he thinks necessary, and, if possible, decide whether any and which of the parties was, at the date of the order made by him under sub-section (1), in possession of the subject of dispute:

Provided that if it appears to the Magistrate that any party has been forcibly and wrongfully dispossessed within two months next before the date on which the report of a police officer or other information was received by the Magistrate, or after that date and before the date of his order under sub-section (1), he may treat the party so dispossessed as if that party had been in possession on the date of his order under sub-section (1).

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

(6) (a) If the Magistrate decides that one of the parties was, or should under the proviso to sub -section (4) be treated as being, in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction; and when he proceeds under the proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed.

(b) The order made under this sub-section shall be served and published in the manner laid down in sub-section (3).

(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purposes of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto.

(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject





to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of powers of the Magistrate to proceed under section 107."

"165. Power to attach subject of dispute and to appoint receiver.⁹

(1) If the Magistrate at any time after making the order under sub-section (1) of section 145 considers the case to be one of emergency, or if he decides that none of the parties was then in such possession as is referred to in section 145, or if he is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach the subject of dispute until a competent Court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof:

Provided that such Magistrate may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of breach of the peace with regard to the subject of dispute.

(2) When the Magistrate attaches the subject of dispute, he may, if no receiver in relation to such subject of dispute has been appointed by any Civil Court, make such arrangements as he considers proper for looking after the property or if he thinks fit, appoint a receiver thereof, who shall have, subject to the control of the Magistrate, all the powers of a receiver appointed under the Code of Civil Procedure, 1908(5 of 1908):

Provided that in the event of a receiver being subsequently appointed in relation to the subject of dispute by any Civil Court, the Magistrate—

(a) shall order the receiver appointed by him to hand over the possession of the subject of dispute to the receiver appointed by the Civil Court and shall thereafter discharge the receiver appointed by him;

(b) may make such other incidental or consequential orders as may be just."

⁹ Section 165 of BNSS.



12.1 From bare perusal of these Sections, this Court feels that before initiating a proceeding under Section 164 BNSS or moving an application under Section 165(1) of the BNSS, circumstances suggesting imminent danger of breach of peace or like circumstance to presume instant threat to public peace and tranquility has to be shown with the assistance of cogent and reliable material. It should not be a vague or bald assertion rather should be supported with strong material. The law in respect of proceeding under Sections 164 & 165 BNSS is no more res-integra that before initiating any proceeding under Sections 164 & 165 BNSS there has to be a serious question of possession and a situation where it is not comprehensible as to which party was in possession of the land in question at the relevant point of time or the circumstances suggesting that parties are bent upon to take forcible possession of the immovable property and therefore, there is an imminent danger to public peace and tranquility. The law in this regard has been discussed and dealt with by this Court in the matter of **Ashoknath Chela Kevalnath**¹⁰. The relevant part of the order is being reproduced as under:

"The law on this point is not res integra that whenever an Executive Magistrate is satisfied from a report of the Police Officer or upon other information that a dispute which is likely to cause breach of peace exists, concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a specified date and time, and to put in written statements of their respective claims with regard to the fact of actual possession of the subject of dispute.

¹⁰ Ashoknath Chela Kevalnath, supra, p.4.



Upon appearance of the parties, the Executive Magistrate is supposed to consider the claims of the rival parties in respect of the fact of actual possession of the subject of dispute. It is the requirement of law that prior to passing any order of attachment of the property and appointment of a receiver, the Magistrate should apply his mind as to whether there are emergent circumstances and eminent danger of breach of peace or not and order of attachment of property and appointment of a receiver under Section 146(1) Cr.P.C. can be passed only after conducting a preliminary inquiry under Section 145 (1) Cr.P.C. The Executive Magistrate is not supposed or rather authorized by the law to adjudicate the right or title of any party over the property in question. The Executive Magistrate is not empowered to pass order of taking the possession from one party and deliver it to the other party or to the receiver, if the question of possession is not under dispute. There is a distinction between right to have possession and question of possession. Right to possession can be decided by a competent Civil/Revenue Court after adjudication of the issues and pleas of the parties to the lis and then it can pass a verdict as to which party has a right to have possession but when it comes to question of possession and the Executive Magistrate is satisfied that none of the parties were then in such possession or the Magistrate was unable to satisfy himself as to which of them was in possession of the subject of dispute and by placing facts strong apprehension has been shown regarding breach of peace and tranquility in respect of the conflict of possession then the Executive Magistrate can very well exercise power under Section 145 Cr.P.C. and 146(1) Cr.P.C. The Executive Magistrate is required to record satisfaction of emergent nature of the case as well as eminent danger of breach of peace or tranquility before passing an order of attachment."

12.2 This Court is conscious of the settled position that proceedings under Sections 164 and 165 BNSS are not proceedings for declaration of title. The Magistrate is not required to decide the ultimate question of ownership in such proceedings. Yet, while examining possession for the limited purpose of preventing breach of peace, the nature, legality and basis of the possession cannot be completely divorced from consideration. A



person asserting possession cannot seek protection merely on the strength of physical occupation when the very basis of such exclusive possession has not been shown to have a lawful foundation.

Contention regarding dispossession under Section 165 of BNSS

13. The submission of learned Senior Counsel Mr. Vikas Balia that the proceedings under Sections 164 and 165 of BNSS do not authorise the Magistrate to dispossess a person who is already in possession has been considered. There can be no quarrel with the proposition that the jurisdiction under the aforesaid provisions is preventive and cannot be converted into a proceeding for adjudication of title. However, the present case has to be appreciated in the backdrop of the nature of the property, the absence of any established proprietary right in favour of the petitioner, the competing claims of rival groups and, above all, the demonstrable apprehension of breach of peace. The Court cannot shut its eyes to the practical realities. If the preventive authority is faced with a situation where rival groups are repeatedly confronting each other, weapons are being carried, police personnel are being obstructed and attempts are being made to forcibly enter a religious premises, then the authority is not expected to remain a silent spectator merely because one faction asserts that it was previously in possession. Preventive jurisdiction is intended precisely to avert such a situation. The object is preservation of peace and not declaration of a winner.



Necessity of Preventive Action and Appointment of Receiver

14. More importantly, the present case cannot be viewed in isolation from the surrounding circumstances. The record does not disclose a peaceful dispute concerning management alone. On the contrary, the material reveals repeated confrontations, competing claims, allegations of forcible entry, use of weapons and physical altercations. The incident of 03.10.2025, the two FIRs arising therefrom and the reports submitted by the police demonstrate that the situation has crossed the stage of a mere civil or managerial disagreement. When hundreds of persons are alleged to be arrayed against one another and the dispute concerns entry into and control over a religious place, the possibility of further violence, injury, disturbance of public order and even desecration or sacrilegious conduct cannot be lightly brushed aside.

14.1 In such a situation, the paramount consideration of a preventive agency is not to settle the finer nuances of title or management, but to prevent the occurrence of bloodshed and to ensure that the peace and tranquillity of the locality are maintained. The law must operate before the occurrence and not merely after the damage has been done. Preventive jurisdiction would lose its very purpose if the authorities were required to wait until another violent incident takes place before taking appropriate measures. The appointment of a receiver, therefore, cannot be said to be an act which is arbitrary, illegal or wholly without



jurisdiction merely because the petitioner was earlier associated with the management of the Gurudwara.

14.2 In the peculiar facts and circumstances of the present case, the action appears to have been necessitated by the prevailing circumstances and the imminent apprehension of breach of peace.

It is not an adjudication of title in favour of one side or against the other; rather, it is a temporary preventive measure intended to neutralise the competing claims and to prevent either faction from taking the law into its own hands. When the existing arrangement itself has become a source of confrontation and no less intrusive effective mechanism is shown to have been available, the preventive authority cannot be faulted for adopting a measure which, in the circumstances, appears to be the need of the hour.

Limited Nature of the Present Adjudication

15. At the same time, it is clarified that this Court has not expressed any final opinion on the title, ownership, permanent management or ultimate rights of any person or institution over the Gurudwara or the land appurtenant thereto. Any such question, if otherwise maintainable before the competent forum, shall be determined independently and in accordance with law. The observations made herein are confined to the limited question arising in the present preventive proceedings.

Directions for Fresh Consideration

16. It is brought to the notice of this Court that the then S.H.O., Police Station Goluwala, District Hanumangarh, who was appointed as the *persona designata*, had been subjected to certain



aspersions by the petitioners. The said officer has since been transferred and is no longer holding the said post.

16.1 At this juncture, Mr. BS Aditya, Superintendent of Police, Hanumangarh, who is present before the Court, submits and assures that the present incumbent SHO, Police Station Goluwala, is a neutral officer and that no allegation or aspersion has been levelled against her in relation to the controversy in question. He further assures the Court that the present officer shall act independently, fairly and strictly in accordance with law, without being influenced by any extraneous consideration.

17. Considering the prevailing circumstances, the S.H.O., Police Station Goluwala, shall undertake a fresh assessment of the prevailing law and order situation and submit a report to the Superintendent of Police, Hanumangarh. The Superintendent of Police shall, thereafter, obtain and consider a fresh report with regard to the present ground situation, the likelihood of any breach of peace and the measures, if any, required for maintaining public order. The said report shall then be placed before the competent/superior authority, who shall take an appropriate decision in accordance with law, upon an objective assessment of the prevailing circumstances.

18. In view of the aforesaid discussion, this Court finds no ground to interfere with the preventive action taken in the peculiar facts and circumstances of the case. The impugned order, viewed from the standpoint of the object sought to be achieved, cannot be termed arbitrary, unreasonable or wholly without jurisdiction.



Rather, it appears to have been passed in response to an immediate and genuine necessity to prevent further confrontation and preserve public peace.

19. Consequently, the present petition, being devoid of merit, is dismissed. The order dated 03.10.2025 passed by the learned SDM and order dated 18.11.2025 passed by the learned Additional Sessions Judge No. 2, Hanumangarh are hereby affirmed. However, it is made clear that the dismissal shall not operate as an adjudication of title, ownership or permanent management rights over the Gurudwara or the land in question, and the parties shall remain at liberty to agitate their substantive rights before the competent forum in accordance with law.

(FARJAND ALI),J

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