

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14186 of 2013**

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1. Anita Devi Wife Of Manoj Kumar Paswan Resident Of Village - Sahora Tola, P.O. Abhirampur, P.S. Chausa, District - Madhepura, At Present Posted As Sevika, Anganwadi Centre - 83, Binova Tola Gram Panchayat Raj Laualagan West, Block - Chausa, District - Madhepura
  2. Wakil Paswan Son Of Late Banarasi Paswan Resident Of Village - Sahora Tola, P.O. Abhirampur, P.S. Chausa, District - Madhepura

.... .... Petitioners

Versus

1. The State Of Bihar through The Secretary, Social Welfare Department, Government Of Bihar, Patna
2. The Directorate Of ICDS, Department Of Social Welfare, Government Of Bihar, Patna
3. The Commissioner, Koshi Division, Saharasa
4. The Deputy Director, Welfare, Koshi Division, Saharasa
5. The District Magistrate, Madhepura
6. The Additional Collector, Madhepura
7. The Chief Executive Officer Cum Deputy Development Commissioner, Madhepura
8. The District Programme Officer, Madhepura
9. The Sub - Divisional Officer, Udakishunganj, Madhepura
10. The Block Development Officer, Chausa, Madhepura
11. The Anchal Adhikari, Chausa, Madhepura
12. The Child Development Project Officer, Chuasa, Madhepura
13. The Mukhiya, Gram Panchayat Raj Laua Lagan West, Block - Chausa, Madhepura
14. The Panchayat Secretary, Gram Panchayat Raj Laua Lagan West, Chausa, Madhepura
15. Smt. Madhumala Rana, The Member Of Zila Parishad, Chausa, Madhepura

.... .... Respondent/s

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**Appearance :**

For the Petitioners : Mr. Ganpati Trivedi Sr. Advocate & Mr. Manoj Kumar, Advocate.

For the State : Mr. S.Prasad, A.C. to AAG-6.

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**CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR**  
**MANDAL**  
**ORAL ORDER**

3      29-03-2016      Heard Mr. Ganpati Trivedi, Sr. Advocate for the  
  
petitioners and the counsel for the State.

Parties have exchanged pleadings.



Where the Anganbari Centre no. 83 in the District of Madhepura shall be located is the question raised in this writ application. Binowa Tola Anganbari Centre No. 83, according to the petitioners, was running at Sahora Tola. Petitioner no.1 is engaged as Anganbari Sevika at the said centre. Since it was running in a makeshift house the petitioner no.2 being father-in-law of petitioner no.1 donated some land for construction of the building of the Anganbari centre. It is stated that after due approval granted to the said proposal the gift deed was executed in the name of the Governor of Bihar. However, the respondents subsequently decided to change the location of the centre. The petitioners having donated the land has a right to get the centre constructed on the donated land.

The respondents in the counter affidavit have stated that the Centre is called Binowa Tola Anganbari Centre no. 83. It has to be established/ located anywhere in Binowa Tola Ward no. 5 but the petitioner no.1 being the Anganbari Sevika arbitrarily was running the centre at Sahora Tolla Ward no. 2. Considering the above as also the objection raised by the villagers, the location was changed and the construction of the centre was decided to be made on a government land located in village-Binowa Tola.



In reply, the petitioners have reiterated that entire population of Sahora Tola belongs to scheduled castes and in the portion of Binowa Tola only few families belong to Scheduled castes. They were included in Poshak kshetra of Anganbari Centre no. 83. No government land was available in Sahora tola and therefore the father-in-law of the petitioner no.1 donated the land. It is further stated that even though they have changed the location of the centre for housing on government land in the Tola/village but, actually the construction is going to be made on the raiyati land of a person. In this connection, he has referred to the impugned communications enclosed as Annexure-19 series to the rejoinder.

On going through the pleadings, this Court does not find any convincing material to hold that the approval of the location of the building of the Anganbari centre was either placed before or approved by the committee headed by the District Magistrate as is required under the resolution of the Government dated 09.05.2013 (Annexure-2). Such matter involving diverse disputed questions of fact, in my view, ought to have been raised before the said committee headed by the District Magistrate whose decision is final as per the resolution of the Government.

The writ application stands disposed of permitting



the petitioners to file a detailed applications in this regard before the committee constituted under the resolution of the Government (Annexure-2) and headed by the District Magistrate. If any such representation is filed within three weeks , the matter shall be placed before and considered by the said committee headed by the District Magistrate and appropriate decision shall be taken in accordance with law, without losing much time.

It appears, a stay was passed in this case. Considering the above, this Court permits the petitioners to approach the District Magistrate for restraining the allegedly ongoing construction over the land at the changed location/site for construction of Anganbari Centre no. 83. If any such application is filed, I am sure the District Magistrate will consider the same and pass appropriate orders as may deemed fit and proper.

**(Kishore Kumar Mandal, J)**

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