

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7372 of 2020

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Mosmat Renu Devi Wife of Late Ashok Kumar Sharma Resident of Village-
Damu, P.S.- Basopatti, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Rural Development Department, Bihar, Patna.
2. The District Magistrate Madhubani.
3. The Block Development Officer Basopatti, District- Madhubani.
4. The Mukhiya Gram Panchayat Raj Damu P.S. -Basopatti, District- Madhubani.
5. Sri Ramashis Mandal Son of Upendra Roy The Present Ward Member, Ward No. 4, Gram Panchayat Raj Damu, P.S. -Basopatti, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kripa Nand Jha, Adv.
For the Respondent/s	:	Mr.Sarvesh Kumar Singh, AAG-13 Mrs. Sunita Kumari, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 19-02-2021 The writ petition has been filed seeking the
following reliefs:-

"(i) For issuance of an appropriate direction, order or writ in the nature of mandamus commanding and restraining the respondents from constructing and erecting the water tower at the gate of petitioner's egress and ingress to her house and courtyard which is malafidely being erected by the respondents no. 3 to 5 contrary to normal provisions for erecting the water tank under the Nal-Jal Yojana



wherein it has been provided that normally the water tank shall be erected just above the water boring, so that the cost of material for water tank can be minimized.

(ii) For holding and declaring that the egress and ingress of any resident cannot be closed, specially when the major chunk of government land is available there."

The learned counsel for the petitioner has submitted that the widow petitioner has an old hutment house where she is residing and the same has been constructed over her land bearing Plot No. 1059, Ward No. 4 of Damu village under Basopatti block of Madhubani district. The learned counsel for the petitioner has further submitted that the local punchayat is constructing a water tank / tower on the very egress and ingress to the plot / house of the petitioner resulting in harassment to the petitioner as also obstruction in her right to way to her house.

Per contra, the learned counsel for the Respondents-State, by referring to the counter



affidavit filed on behalf of the respondents no. 2 and 3, has submitted that under the Nal Jal Yojana, the said water tank is being constructed on the public land i.e. gair majarua aam land and the petitioner has no right, title or interest over the same, hence, no obstruction can be made in construction of the said water tank / tower.

Having regard to the facts and circumstances of the case, this Court finds that the present case involves disputed question of facts, which cannot be adjudicated in a writ petition under Article 226 of the Constitution of India, hence, this Court deems it fit and proper to grant liberty to the petitioner to approach the District Magistrate, Madhubani, by filing appropriate representation within a period of four weeks from today, whereupon the District Magistrate, Madhubani shall consider the entire issue and ensure that the water tank / tower in question, proposed to be constructed at the entry gate of the plot / house of the petitioner, in no manner, obstructs the egress and ingress of the petitioner to her plot / house in



question.

It is needless to state that till a final decision is taken by the learned District Magistrate, Madhubani, the interim order dated 17.09.2020, whereby and whereunder the respondents have been restrained from constructing water tower at the gate of the house of the petitioner, shall continue.

The writ petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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