

**WPA 19434 of 2024**  
**Tapas Kumar Pan @ Tapas Pan**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Pintu Karar,  
Mr. Sahab Uddin Laskar,  
Mr. Sourav Roy,  
Ms. Meghna Chowdhury

...for the Petitioner

Mr. Ranjit Rajak

...for the State

The petitioner alleges that his co-sharers, being respondent nos. 9 and 10, are carrying out unauthorised construction on Dag No. 495, J.L. No. 137, Mouza–Ganeshpur, Police Station Khanakul, District Hooghly.

Learned counsel appearing on behalf of the petitioner submits that a representation was made before the Panchayat Authority on July 19, 2024; however, no action has been taken by the said authority.

The photographs annexed as Annexure ‘26’ to the writ petition, however, indicate that a two-storied building was already in existence prior to the filing of the present writ petition.

In view of the aforesaid, this Court is not inclined to entertain the writ petition on account of the petitioner’s belated approach.

It appears that the petitioner allowed the construction to proceed to a substantial extent. At least a two-storied

structure was already in existence before the filing of the writ petition. Having consciously permitted such construction to continue and having approached this Court only after substantial completion of the building, the petitioner cannot now contend that the construction is being carried out without a sanctioned plan.

Such conduct attracts the well-established principles of delay, acquiescence, and want of bona fides. A Civil Court, applying settled principles of equity, would decline an injunction in favour of a litigant who consciously allows a structure to be raised and then seeks its demolition. The writ jurisdiction under Article 226, being equally discretionary and grounded in equitable considerations, cannot be invoked to resurrect an equitable right that the petitioner has clearly forfeited. The writ court cannot be utilised as an alternative forum to secure indirectly what is not obtainable directly in a civil proceeding. At best, a petitioner in such circumstances may seek a direction upon the statutory authority to act in accordance with law; no personal or equitable relief may be granted.

Further, it appears that the dispute between the parties is purely civil in nature, wherein the petitioner alleges encroachment upon his land by the respondents. The petitioner cannot be permitted to give a public law colour to a dispute that is essentially civil in nature,

particularly at such a belated stage.

In view of the above, there is no justification for entertaining the present writ petition.

This order shall not preclude the petitioner from filing an appropriate civil suit or the Panchayat for discharging its statutory duties, in accordance with law.

Accordingly, **WPA 19434 of 2024** is dismissed.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

**(Kausik Chanda, J.)**