

WPA 20828 of 2024
Sk. Rajibul
Vs.
The State of West Bengal & Ors.

Mr. Lalratan Mondal,
Mr. Dilip Kumar Sadhu

...for the Petitioner

Mr. K. M. Hossain,
Mr. Debopriyo Karan

...for the State

Mr. Sukanta Das

...for Respondent Nos. 7 to 9

The petitioner alleges that respondent nos. 7 to 9 have undertaken three separate unauthorised constructions encroaching upon a common passage. It is alleged that these constructions were made without obtaining any permission from the Panchayat Authority. It is further alleged that, as a consequence of such unauthorised constructions, the petitioner's ingress to and egress from his residential house have been obstructed.

Learned counsel appearing on behalf of the State submits that the petitioner has already approached the civil court, wherein an order of injunction has been passed in the said suit. The petitioner himself has admitted this fact in paragraph 5 of the writ petition.

Learned counsel appearing for respondent nos. 7 to 9 submits that respondent no. 7 has constructed his residential building under the Indira Awaas Yojana. It is further submitted that the construction raised by

respondent no. 8 is temporary in nature, while respondent no. 9 is running a tailoring shop from a tin-shed structure.

The present writ petition is liable to be dismissed for more than one reason. The petitioner has already instituted a civil suit against respondent nos. 7 to 9 seeking removal of their respective constructions.

The residential house of respondent no. 7, constructed under the “Indira Awaas Yojana,” does not require a sanctioned plan in view of the first proviso to Rule 19(1) of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004.

The construction of the tea stall made by respondent no. 8, being of Chitabera (bamboo fencing) with a tin shed, does not require prior permission under Section 23 of the West Bengal Panchayat Act, 1973.

Insofar as the allegation of unauthorised construction against respondent no. 9 is concerned, from the photograph produced before this Court, it clearly appears that the said tailoring shop is an old structure. The photograph indicates that the building was constructed long ago.

The petitioner’s conduct attracts the well-established principles of delay, acquiescence, and want of bona fides.

The much-belated allegation regarding the absence of a sanctioned plan is inextricably intertwined with the

underlying civil dispute and appears to have been raised only to impart a semblance of a public law character to what is fundamentally a private conflict.

This Court is not an appropriate forum for adjudication of an encroachment dispute. It has already been noted that a civil suit is pending between the parties.

Accordingly, **WPA 20828 of 2024** stands disposed of.

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.)