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16-02-2026
AKG
Ct. 15

WPA 474 of 2026
Subhajit Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Lalratan Mandal

...for the Petitioner

Mr. B. P. Vaisya,
Mr. Nilay Baran Mandal

...for the State

The petitioner alleges that respondent nos. 9 and 10 have raised an unauthorized construction on L.R. Plot No. 114/549, J.L. No. 112, Mouza-Janmahammadpur, Berhampore, District Murshidabad.

According to the petitioner, he is a co-owner of the said plot of land and respondent nos. 9 and 10, having no right, title, or interest therein, have undertaken construction without obtaining permission from the Panchayat Authority. It is further alleged that the classification of the land was not converted to "Bastu" prior to the construction.

However, from the representation made by the petitioner, it appears that the present writ petition has been filed only after completion of the construction in question. No photograph of the alleged construction has been annexed to the writ petition.

Having consciously permitted the construction to continue and having approached this Court only after its completion, the petitioner cannot now contend that the construction was undertaken without a sanctioned plan.

Such conduct attracts the well-established principles of delay, acquiescence, and absence of bona fides. A writ court, guided by settled principles of equity, would ordinarily decline relief to a litigant who allows a structure to be raised and thereafter seeks its demolition. The jurisdiction under Article 226 of the Constitution of India, being discretionary and founded upon equitable considerations, cannot be invoked to resurrect a right that the petitioner has, by his own conduct, forfeited.

Furthermore, it is evident that the dispute between the parties is essentially civil in nature, involving allegations of encroachment upon the petitioner's land. The petitioner cannot be permitted to impart a public law character to what is fundamentally a private civil dispute, particularly at such a belated stage. The writ court cannot be utilized as an alternative forum to secure indirectly what may not be obtainable directly in appropriate civil proceedings.

The allegation regarding the absence of a sanctioned plan is inextricably intertwined with the underlying civil dispute and appears to have been raised merely to lend a semblance of public law character to what is, in substance, a private conflict.

However, dismissal of the writ petition shall not preclude the petitioner from seeking appropriate relief before the competent Civil Court in accordance with law.

Accordingly, **WPA 474 of 2026** stands 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.)