

24.02.2026
Item No.07.
Ct. No.15
Suman

WPA 791 of 2026

Gunadhar Ghosh
-Vs-
The State of West Bengal and Ors.

Mr. Gopal Chandra Ghosh
Mr. Rajkrishna Mondal
..for the petitioner

Mr. Goutam Banerjee
..for the private respondent

Ms. Srijani Mukherjee
Ms. P. Dutta
..for the State

Let the supplementary affidavit filed by the petitioner be kept on record.

The petitioner alleges unauthorized construction by the legal heirs of his brother, namely respondent nos. 5, 6, and 7. It is submitted that his brother, now deceased, had obtained a sanctioned plan from the Mandaran Gram Panchayat on February 16, 2017. Subsequently, by an order dated April 28, 2017, the Panchayat revoked the sanctioned plan on the ground that no partition had taken place among the co-sharers.

Thereafter, the petitioner filed Title Suit No. 58 of 2017 before the Court of the learned Civil Judge (Junior Division), First Court at Arambagh,

Hooghly, wherein, on July 12, 2017, a contested injunction order was passed directing the parties to maintain the status quo. The order of the Civil Court was, however, not complied with. In violation of the Civil Court's order, the deceased brother of the petitioner continued construction.

The Civil Court subsequently, by an order dated August 11, 2017, appointed a Commissioner and directed the local police station to implement the injunction order dated July 12, 2017. Despite these directions, the deceased brother proceeded with the construction. The petitioner then filed an application under Order 39 Rule 2(A) of the Code of Civil Procedure for violation of the injunction order, which was registered as Misc. Case No. 49 of 2017. The said Miscellaneous Case has not yet been disposed of by the learned Judge.

This writ petition has been filed after a delay of approximately nine years from the date of the injunction order passed by the Civil Court.

Mr. Ghosh, learned counsel appearing for the petitioner, submits that the building has been constructed without any sanctioned plan. The petitioner thereafter filed this writ petition when, despite the order of the Sub-Divisional Officer, Arambagh, Hooghly, dated September 2025,

directing the Block Development Officer, Goghat-II Development Block, to take appropriate steps, no action was taken by the said authority.

Mr. Ghosh further submits that the unauthorized construction is liable to demolition, irrespective of the age of the structure. In support of his submission, reliance is placed on the judgments of the Hon'ble Supreme Court passed in **Civil Appeal No. 14604 of 2024 arising out of SLP (C) No. 36440 of 2014 (Rajendra Kumar Barjatya and another v. U. P. Avas Evam Vikas Parishad and Ors.)** and **Civil Appeal No. 14605 of 2024 arising out of SLP (C) No. 1184 of 2015 (Rajeev Gupta and Others v. U. P. Avas Evam Vikas Parishad and Ors.)**.

On the other hand, Mr. Goutam Banerjee, learned counsel appearing for respondent nos. 5, 6, and 7, submits that the relevant building was constructed in 2014, prior to the grant of the injunction by the Civil Court. Mr. Banerjee further submits that the dispute between the parties is purely civil in nature, and that the petitioner has an appropriate remedy before the Civil Court in the pending civil suits.

This Court is of the opinion that the petitioner should not be permitted to seek demolition of the building on the ground of lack of

a sanctioned plan by invoking writ jurisdiction at this belated stage. Such conduct attracts the well-established principles of delay, acquiescence, and lack of bona fides.

Further, it appears that the dispute between the parties is essentially civil in nature. The petitioner cannot be permitted to cloak a private dispute in the guise of public law, particularly at such a belated stage. The writ court cannot be used as an alternative forum to secure indirectly what could not be obtained directly in civil proceedings.

The allegation regarding the absence of a sanctioned plan is inextricably linked with the underlying civil dispute and appears to have been raised solely to impart a semblance of public law character to what is fundamentally a private conflict. Having already availed himself of remedies before the Civil Court, the petitioner cannot be permitted to convert a private dispute into one of public law at this late stage.

Accordingly, **WPA 791 of 2026** is **dismissed**.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)