

25.02.2026
Sl.09.
Suman
Ct.No.15

WPA 1213 of 2026

Kuldip Bera
Vs.
The State of West Bengal and Ors.

Mr. Manoranjan Jana
Ms. Mitali Jana
..for the petitioner

Ms. Bina Baidya
..for respondent nos. 9 to 12.

Mr. Sourav Mitra
Mr. Pradip Pal
..for the State

The petitioner claims to be the Secretary of a charitable dispensary, namely Ajaya Madhab Chandra Databya Chikitsalaya.

It is the petitioner's case that plot nos. 1890, 1891, 1892, 1888 and 1892/2490, J.L. No. 189/63, Mouza-Kumarpur, P.S. Pathar Pratima, District-South 24 Parganas, belong to the said charitable dispensary.

The petitioner alleges that respondent nos. 9 to 14 have raised unauthorized constructions on the said plots without conversion of the land classification from "Sali" to "Bastu." It is further alleged that such constructions were undertaken without obtaining permission from the Panchayat Authority.

Upon being directed by this Court to produce photographs of the alleged unauthorized structures, the petitioner failed to do so. However, learned counsel appearing for respondent nos. 9 to 12 has produced photographs of the buildings constructed by them. Let the said photographs be kept on record.

It has been submitted on behalf of the said respondents that the constructions were undertaken under the “Pradhan Mantri Awas Yojana.” It is further submitted that, as of date, no charitable dispensary exists on the said land as alleged by the petitioner. Additionally, it is contended that the petitioner resides in the district of Medinipur and has no connection with the lands in question.

It is an admitted position before this Court that the alleged unauthorized constructions were in existence well prior to the filing of the present writ petition. The photographs produced before this Court corroborate this position.

It further appears that a civil suit concerning the said lands is pending between the parties.

Having consciously permitted the constructions to continue and having approached this Court only after their completion, the petitioner cannot now contend that the constructions were carried out without a sanctioned plan. Such conduct attracts the well-settled principles of delay, acquiescence, and absence of bona

fides. A writ court, guided by established principles of equity, would ordinarily decline relief in favour of a litigant who has knowingly allowed a structure to be erected and thereafter seeks its demolition. The jurisdiction under Article 226 of the Constitution, being discretionary and equitable in nature, cannot be invoked to revive a claim that the petitioner has, by his conduct, forfeited.

Furthermore, the dispute between the parties appears to be purely civil in nature, the gravamen of the petitioner's complaint being alleged encroachment upon the land in question. The petitioner cannot be permitted to impart a public law character to a dispute that is essentially civil, particularly at such a belated stage. The writ jurisdiction cannot be utilised as an alternative forum to secure indirectly what could not be obtained directly through 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 colour to what is fundamentally a private conflict. The petitioner, having already availed himself of the remedy before the Civil Court, cannot now seek to convert the same dispute into a matter of public law.

Accordingly, **WPA 1213 of 2026** is dismissed.

It is made clear that the dismissal of this writ petition shall have no bearing on the pending civil suit between the parties. Any observations made herein shall not affect the civil rights of the parties in the said suit.

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.)