

59 23-02-2026
AKG
Ct. 15

WPA 1659 of 2026

**Sushama Koley
Vs.
The State of West Bengal & Ors.**

Mr. Niladri Sekhar Ghosh,
Ms. Laboni Sikdar,
Mr. Souvik Dey,
Mr. Subhrojyoti Hazra

...for the Petitioner

Sk. Mujibar Rahman

...for the State

Let the photographs produced by the petitioner be kept on record.

The petitioner alleges unauthorized construction by respondent No. 7, her brother. She claims that she jointly inherited Dag No. 1401, J.L. No. 21, Pursurah, District Hooghly, along with her brother. The property has not been formally partitioned. It is further alleged that, without her consent, respondent No. 7 has constructed a residential building. Learned counsel appearing for the petitioner has produced photographs of the building in question. It appears, however, that the construction was completed well before the filing of the writ petition.

Having consciously allowed such construction to continue and approaching this Court only after its completion, the petitioner cannot now contend that the

construction has been carried out without a sanctioned plan. Such conduct engages 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 in favour of a litigant who knowingly permits a structure to be erected and thereafter seeks its demolition. The jurisdiction under Article 226 of the Constitution of India, being discretionary and grounded in equitable considerations, cannot be invoked to revive an equitable right that the petitioner has clearly forfeited.

Further, it appears that the dispute between the parties is essentially civil in nature, with the petitioner alleging encroachment on her land by the respondents. The petitioner cannot be permitted to cloak a private civil dispute in the guise of a public law matter, particularly at such a belated stage. The writ jurisdiction cannot be employed as an alternative forum to obtain indirectly what could only be sought directly through civil proceedings.

The allegation regarding the absence of a sanctioned plan is inextricably linked to 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. Accordingly, the writ petition is devoid of merit.

Accordingly, **WPA 1659 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.)