

22.01.2026
Sl No.A815
Ct. No.15
S.A.

WPA 5807 of 2025

**Shri Shri Biswanath Thakur Jew, by
Sevayat Pabitra Halder**

-vs-

State of West Bengal & Ors.

Mr. Golam Karim Chowdhury
...for the petitioner

Mr. Prosenjit Mukherjee

Mr. Nirmalya Kumar Das

Ms. Babita Pramanik

...for respondent nos.12 to 14

The petitioner alleges unauthorised construction by respondent nos. 12 to 16. It is submitted before this Court that such unauthorised construction has been carried out on “Sali” land without obtaining any permission from the Panchayat Authority.

At the outset, it is required to be noted that, although an omnibus allegation of unauthorised construction has been levelled against respondent nos. 12 to 16, the pleadings disclose that the alleged construction pertains only to respondent nos. 12 to 15. The writ petition is conspicuously silent with regard to any specific allegation of unauthorised construction by respondent no. 16 (Barun Haldar).

Mr. Prosenjit Mukherjee, learned counsel appearing for respondent nos. 12 to 14, has produced before this Court a conversion certificate as well as

permission granted by the Panchayat Authority in respect of the construction in question.

This Court is, however, not inclined to enter into the question as to whether the building is without a sanctioned plan or is otherwise unauthorised. It appears that the building in question was constructed at least twenty years ago by respondent nos. 12 to 15.

Having consciously permitted such construction to exist for such a long period, the petitioner cannot now be permitted to contend that the construction was carried out without a sanctioned plan. Such conduct squarely attracts the well-established principles of delay, acquiescence, and lack of bona fides. A writ court, applying settled principles of equity, would decline relief in favour of a litigant who knowingly allows a structure to be raised and thereafter seeks its demolition. The writ jurisdiction under Article 226 of the Constitution, being discretionary and founded upon equitable considerations, cannot be invoked to revive a right which the petitioner has, by his own conduct, forfeited.

The various representations made by the petitioner to the respondent authorities further reinforce the aforesaid conclusion.

Moreover, it appears that the dispute between the parties is purely civil in nature, wherein the

petitioner alleges encroachment upon his land by the respondents. The petitioner cannot be permitted to confer a public law colour upon a dispute that is essentially private and civil in character, particularly at such a belated stage. The writ court cannot be utilised as an alternative forum to indirectly secure what is not obtainable directly in a civil proceeding.

The allegation regarding absence of a sanctioned plan is inextricably intertwined with the underlying civil dispute and appears to have been raised merely to impart a veneer of public law to what is fundamentally a private conflict.

Accordingly, **WPA 5807 of 2025** stands 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.)