

A821 22-01-2026
AKG
Ct. 15

WPA 5896 of 2025
Sri Amar Mondal
Vs.
The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee,
Mr. Nirmalya Kumar Das,
Ms. Babita Pramanik,
Mr. Prosenjit Chongder

...for the Petitioner

Mr. Suman Basu

...for Respondent No. 4

Mr. Subhendu Bandyopadhyay,
Mr. Arindam Mitra,
Mr. Sayandip Tapaswi

...for Respondent Nos. 7 to 10

The petitioner alleges that unauthorised construction has been carried out at the behest of respondent nos. 7 to 10. It is alleged that such construction has been undertaken without conversion of the classification of the relevant land and without obtaining permission from the Panchayat Authority.

It is further asserted that the petitioner is one of the co-sharers of the land in question and that the construction has been undertaken without the petitioner's consent.

Learned counsel appearing for the petitioner submits that the building in question was constructed in the year 2004. There are, however, no averments in the writ petition to suggest that the construction is of a recent origin. On the contrary, the representation of the petitioner, as annexed to the writ petition, clearly indicates that the buildings were already in existence prior to the filing of the

writ petition.

Learned counsel appearing for respondent nos. 7 to 10, on the other hand, submits that the dispute between the parties is purely civil in nature. It is contended that a partition suit was instituted in the year 2021 by the petitioner as plaintiff, impleading respondent nos. 7 to 10 as defendants.

In the said partition suit, there is already a subsisting order of injunction restraining the parties from making any further construction. Learned counsel for respondent nos. 7 to 10 has also produced photographs of the relevant building to demonstrate that the structure is at least 30–35 years old.

Let the photographs filed by respondent nos. 7 to 10 be kept on record. Notably, the petitioner has not annexed any photograph of the alleged construction to the writ petition.

Having consciously permitted the construction to subsist and having approached this Court only after a long delay, the petitioner cannot now contend that the construction is being carried out without a sanctioned plan. Such conduct squarely attracts the well-established principles of delay, acquiescence, and want of bona fides. A Writ Court, applying settled principles of equity, would

decline to grant 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 on equitable considerations, cannot be invoked to resurrect a right that the petitioner has clearly forfeited by his own conduct.

The petitioner, having already availed of the remedy before the Civil Court for redressal of his grievances, cannot be permitted to impart a public law character to a dispute that is essentially civil in nature, particularly at such a belated stage. The writ court cannot be utilised as an alternative forum to indirectly secure what could not be obtained directly in 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.

Accordingly, **WPA 5896 of 2025** 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.)

