

M/L. 861
19.02.2026
S.D.

W.P.A. 6261 of 2025

Rajib Mandal
Vs.
The State of West Bengal & Ors.

Mr. Goutam Misra
Mr. Aniruddha Mohanta
Mr. Vaskar Pal

..For the petitioner

Ms. Sipra Majumder
Ms. Somasree Dey

....For the State

Mr. Chandan Nath Sarkar
Mr. S. Mondal

....For the respondent no. 5

The petitioner seeks demolition of an alleged unauthorized construction purportedly raised by respondent nos. 5 to 7. It is undisputed that the petitioner and the said respondents are co-sharers in respect of the land upon which the building stands.

Learned counsel appearing for respondent no. 5 submits that the construction was undertaken in the year 1991. It is further submitted that two partition suits concerning the same property are presently pending between the parties. Learned counsel for the petitioner, however, disputes the contention that the building was constructed in 1991.

In the considered view of this Court, no order of demolition can be passed in the present writ petition at this stage, particularly as the petitioner's own representation indicates that the alleged unauthorized construction had been in existence long prior to the institution of the writ proceedings. Having knowingly permitted the construction to subsist and having approached this Court only after completion of the structure, the petitioner cannot now contend that the construction is being carried out without a sanctioned plan.

Such conduct attracts the well-established principles of delay, acquiescence, and absence of bona fides. A Writ Court, applying settled principles of equity, would decline to grant relief to a litigant who consciously allows a structure to be erected and thereafter seeks its demolition. The writ jurisdiction under Article 226 of the Constitution, being discretionary and equitable in nature, cannot be invoked to revive a right that the petitioner has, by his own conduct, forfeited.

It further appears that the dispute between the parties is essentially civil in nature, the petitioner alleging encroachment upon his share of the property by the

respondents. The petitioner cannot be permitted to impart a public law character to a dispute that is fundamentally private and civil, particularly at such a belated stage. The Writ Court cannot be utilized as an alternative forum to obtain indirectly what may not be available 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, in substance, a private conflict. The petitioner, having already availed himself of remedies before the Civil Court for redressal of his grievances, cannot now seek to re-agitate the matter in writ jurisdiction under the guise of a public law challenge.

Accordingly, **W.P.A. 6261 of 2025** stands dismissed.

(Kausik Chanda, J.)