

A679 07-01-2026
AKG
Ct. 15

WPA 7525 of 2024
Ratan Dutta
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee,
Mr. Akashdeep Mukherjee,
Mr. Omar Faruk Gazi,
Mr. Soumyadeep Nag,
Mr. Satyam Pandey

...for the Petitioner

The petitioner alleges unauthorised construction at the instance of respondent no. 11.

It is the case of the petitioner that he has been running a hotel business on land comprised in L.R. No. 3096, J.L. No. 86, Mouza-Khadalgobra, P.S.-Digha Mohana Coastal, District Purba Medinipur. The petitioner alleges that the owner of the adjoining plot has constructed a building for the purpose of running a hotel business and that the cantilever of the said building obstructs the petitioner's easementary rights.

The written representations addressed to the Officer-in-Charge, Digha Mohana Coastal Police Station, as well as to Mr. Nirmal Saha, copies whereof appear at page 40 of the writ petition, do not contain any specific allegation that the building was constructed without permission from the Panchayat Authority. The building has merely been described as "illegal." The nature of the allegations contained in the said representations also makes it evident

that the petitioner's primary grievance relates to an alleged infringement of his easementary rights.

Mr. Sabyasachi Chatterjee, learned advocate appearing for the petitioner further alleges that respondent no. 11 has unauthorisedly constructed the building along with the cantilevers.

The allegation contained in paragraph 7 of the writ petition, relating to the building and its cantilevers, suggests that the construction was carried out without permission from the Panchayat Authority.

It is, however, evident that the building was already in existence at the time of filing of the writ petition. There is no specific pleading in the writ petition to the effect that the cantilevers were constructed subsequently.

Having consciously permitted such construction to continue and having approached this Court only after substantial completion of the building, 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 want of bona fides. A Civil Court, applying settled principles of equity, would decline an injunction in favour of a litigant who consciously allows a structure to be raised and then seeks its demolition. The

writ jurisdiction under Article 226, being equally discretionary and grounded in equitable considerations, cannot be invoked to resurrect an equitable right that the petitioner has clearly forfeited.

The dismissal of the writ petition, however, shall not preclude the petitioner from seeking appropriate relief before the competent forum in respect of his alleged easementary rights.

Accordingly, **WPA 7525 of 2024** 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.)