

08.01.2026
SI No.A 683
Ct. No.15
S.A.

WPA 12161 of 2024

Jyotirindra Chattopadhyay
-vs-
The State of West Bengal & Ors.

Mr. Sabyasachi Mukhopadhyay
Ms. Koushikee Banerjee
Mr. Sarbajit Choudhuri
...for the petitioner
Ms. Sabnam De Bardhan
Mr. Ranjit Rajak
...for the State

It is the case of the petitioner that Respondent Nos. 15 to 23 have raised unauthorised construction on certain plots referred to in paragraph 3 of the writ petition. The petitioner claims to be one of the co-sharers of the said lands.

The petitioner further alleges that, in violation of an injunction order passed in a partition suit pending between the parties, Respondent Nos. 15 to 23 have carried out such unauthorised construction.

The photographs appearing at pages 52 and 53 of the writ petition make it abundantly clear that, at the time of filing of the writ petition, the construction of a one-storied residential building had already been completed.

Having consciously permitted the construction to proceed and having approached this Court only after substantial 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 lack of bona fides. A civil court, applying settled principles of equity, would decline to grant an injunction 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 of India, being equally discretionary and rooted in equitable considerations, cannot be invoked to revive an equitable right that the petitioner has clearly forfeited.

Furthermore, 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 impart a public law colour to a dispute that is essentially private and civil in character, particularly at such a belated stage. The writ court cannot be invoked as an alternative forum to indirectly secure relief that is not directly obtainable in a civil proceeding.

The allegation regarding the absence of a sanctioned plan is inextricably intertwined with the underlying civil dispute and appears to have been

raised solely to lend a veneer of public law character to what is fundamentally a private conflict.

Accordingly, **WPA 12161 of 2024** 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.)