

A689 08-01-2026
AKG
Ct. 15

WPA 17735 of 2024
Golam Rahaman Sekh
Vs.
State of West Bengal & Ors.

Mr. Gaus ul Alam
...for the Petitioner
Mr. Debjit Mukherjee,
Mr. Amartya Pal
...for the State
Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal,
Ms. Poulumi Chakraborty,
Mr. Diganta Ghosh
...for Private Respondents

The petitioner alleges that unauthorised construction has been carried out at the behest of Respondent No. 9. It is submitted that a partition suit is pending between the parties, in which an injunction order has been passed. In alleged violation of the said injunction order, Respondent Nos. 7 to 10 are stated to have raised unauthorised construction on the suit premises.

Learned counsel appearing for the petitioner, with reference to page 28 of the writ petition, submits that no permission was obtained from the Raninagar-II Gram Panchayat prior to raising the construction.

Learned counsel appearing for Respondent Nos. 6 and 7, on the other hand, submits that a construction had already existed on the said premises prior to the year 2000 and that no construction has been carried out by Respondent Nos. 6 and 7 thereafter.

The complaint of the petitioner, as appearing at page 28 of the writ petition, makes it evident that the alleged unauthorised construction had been completed even prior to the filing of the writ petition.

Having consciously permitted such construction to continue and having approached this Court only after substantial completion of the structure, the petitioner cannot now be permitted to 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 grounded 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 civil in nature, particularly at such a belated stage. The writ court cannot

be utilised as an alternative forum to indirectly secure relief which 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 only to lend a semblance of a public law character to what is fundamentally a private conflict.

Accordingly, **WPA 17735 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.)