

20.01.2026
Item no.07.
Ct. No.15
Suman

WPA 20244 of 2025

Rahila Bibi and Ors.
-vs-
The State of West Bengal and Ors.

Ms. Reshmi Khatun
..for the petitioner

Mr. Ziaul Haque
..for respondent nos. 10 to 13.

The petitioner alleges unauthorized construction at the behest of respondent nos. 10 to 13.

Learned counsel appearing for the petitioner submits that, during the pendency of a civil suit between the parties and in violation of an injunction order passed therein, respondent nos. 10 to 13 carried out unauthorized construction without obtaining permission from the Panchayat Authority.

It is further submitted by learned counsel for respondent nos.10 to 13 that respondent no.13 has not undertaken any unauthorized construction and possesses a sanctioned plan for his building. However, no sanctioned plan could be produced in respect of the construction allegedly carried out by respondent nos. 10 to 12.

As in several other cases, the petitioner has approached this Court only after completion of the

construction. This fact is evident from the photograph appearing at page 38 of the writ petition, which clearly indicates that even the roof of the building had been completed prior to the filing of the writ petition.

Learned counsel appearing for respondent nos. 10 to 13 submits that the building was completed at least one and a half years ago and that respondent nos. 10 to 12 have been residing therein since then.

Having consciously permitted the construction to continue and having approached this Court only after completion of the building, the petitioner cannot now contend that the construction was carried out without a sanctioned plan. Such conduct attracts the well-established principles of delay, acquiescence, and lack of bona fides. A writ court, applying settled principles of equity, would decline to grant relief in favour of a litigant who consciously allows a structure to be raised and thereafter seeks its demolition. The writ jurisdiction under Article 226 of the Constitution of India, being discretionary and grounded in equitable considerations, cannot be invoked to revive a right that the petitioner has clearly forfeited by his own conduct.

Further, it appears that the dispute between the parties is purely civil in nature, the petitioner alleging encroachment upon his land by the respondents. The petitioner 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 secure indirectly what is not obtainable directly 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 merely to lend a semblance of public law colour to what is fundamentally a private conflict.

Accordingly, **WPA 20244 of 2025** is 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.)

