

20.01.2026
Item no.05.
Ct. No.15
Suman

WPA 21765 of 2025

Basudeb Saha
-vs-
The State of West Bengal and Ors.

Ms. Bina Baidya
..for the petitioner

The petitioner alleges that respondent nos. 8 to 11 have carried out unauthorised construction at their behest.

It is submitted that respondent nos. 8 to 11 have undertaken construction without obtaining any permission or sanction from the competent Panchayat Authority.

It is further contended on behalf of the petitioner that the construction has been raised without providing the mandatory open spaces, thereby obstructing the petitioner's access to light and air and infringing upon the petitioner's easementary rights.

The petitioner, however, has approached this Court only after the completion of the building. This fact is evident from the photographs annexed to the writ petition.

Having consciously permitted the construction to proceed and having invoked the writ jurisdiction of this Court only after the building had been

substantially completed, the petitioner cannot now contend that the construction was undertaken without a sanctioned plan.

Such conduct squarely attracts the well-established principles of delay, acquiescence, and absence of bona fides. A writ court, applying settled principles of equity, would ordinarily decline to grant relief in favour of a litigant who knowingly allows a structure to be erected and thereafter seeks its demolition. The writ jurisdiction under Article 226 of the Constitution, being discretionary and informed by equitable considerations, cannot be invoked to revive an equitable right which the petitioner has clearly forfeited by his own conduct.

This order shall not, however, preclude the petitioner from instituting a civil suit against respondent nos. 8 to 11 before the competent civil court, seeking such reliefs as may be available in law.

Accordingly, **WPA 21765 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.)