

07.01.2026
Sl No.2
Ct. No.15
S.A.

WPA 26040 of 2025

Abul Kalam Shaikh
-vs-
The State of West Bengal & Ors.

Mr. Sarbananda Sanyal
Mr. Hamidur Rahman
Mr. Saikat Gayen
...for the petitioner

Mr. Moloy Roy
Mr. Rezzak Hossen
...for the State

Mr. Probal Kumar Mukherjee, Sr. Adv.
Ms. Shebatee Datta
...for respondent no.9

The petitioner alleges unauthorised construction at the instance of respondent no. 9 on Plot No. 5207, Mouza–Dakshin Majhardiyar, J.L. No. 88, Police Station–Raninagar, District Murshidabad.

The petitioner submits that a competent civil court has dismissed a title suit filed by respondent no. 9 seeking a declaration of his right, title, and interest in respect of the property in question.

It is alleged that, notwithstanding the dismissal of the said suit, respondent no. 9 has constructed a residential building on the subject land without obtaining any sanctioned plan from the Panchayat Authority. The petitioner further submits that he made a representation before the Panchayat Authority seeking demolition of the said building; however, no steps have been taken pursuant thereto.

Mr. Probal Kumar Mukherjee, learned senior advocate appearing for respondent no. 9, on the other hand, submits that the residential building was constructed long ago. By drawing attention to page 11 of the writ petition, he submits that the subject plot has already been recorded as Bari (house) in the relevant record of rights. He further submits that the construction being an old construction does not require any sanction from the Panchayat Authority at this stage.

From the photographs produced and the relevant entries in the record of rights, it appears that the building has been in existence for a considerable period of time. It is also not in dispute that the petitioner is a resident of the same plot.

The conduct on the part of the petitioner attracts the well-established principles of delay, acquiescence, and lack of bona fides. The writ jurisdiction under Article 226 of the Constitution of India, being discretionary and founded on equitable considerations, cannot be invoked to revive a right which the petitioner has clearly forfeited by his own inaction. 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 only to impart a veneer of public law character to what is, in substance, a private dispute.

Accordingly, **WPA 26040 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.)