

3
15-01-2026
AKG
Ct. 15

WPA 26392 of 2025
Abdus Salam Mondal & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Golam Mastafa,
Mr. T. S. Samanta,
Mr. Subir Sabud

...for the Petitioner

Mr. Rabindra Nath Basak,
Mr. Ranajit Roy

...for the State

Mr. Minhaz S. Islam,
Ms. Reshmi Khatun,
Mr. Avinaba Mukherjee

...for Respondent Nos. 7 to 9

Learned counsel appearing for the petitioner submits that respondent nos. 7 to 9 have constructed a boundary wall and a building by encroaching upon Panchayat land. It is further submitted that, as a consequence of such encroachment, the petitioner's ingress and egress from his residential building has been obstructed.

The parties were directed to produce photographs of the plot in question in order to enable the Court to appreciate the nature of the construction allegedly raised by respondent nos. 7 to 9. The photographs produced by the parties do not reveal the existence of any boundary wall. The residential buildings in question admittedly appear to be old constructions, having been raised well

prior to the filing of the writ petition.

Having consciously permitted such construction to continue and having approached this Court only after completion thereof, the petitioner cannot now be permitted to contend that the construction was carried out without a sanctioned plan.

Such conduct attracts the well-established principles of delay, acquiescence, and want of bona fides. The writ jurisdiction under Article 226 of the Constitution, being discretionary and grounded in equitable considerations, cannot be invoked to resurrect an equitable right that the petitioner has clearly forfeited.

Further, it appears that the dispute between the parties is purely civil in nature, wherein the petitioner alleges encroachment of Panchayat land by the respondents. The petitioner cannot be permitted to impart a public law colour to a dispute that is essentially civil, 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 only to lend a semblance of a public law character to what is fundamentally a private conflict.

Accordingly, **WPA 26392 of 2025** is 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.)