

20.01.2026
Item no.02
Ct. No.15
Suman

WPA 26632 of 2025

Surath Naskar
-vs-
The State of West Bengal and Ors.

Mr. Indrajit Roy Chowdhury
Ms. T. Chandra
Mr. Srijan Roy
..for the petitioner

Md. Mansoor Alam
Ms. Sayani Das
..for the State

Md. Hasanuz Zaman
Mr. Soham Banerjee
..for the private respondent

The petitioner alleges unauthorised construction at the behest of respondent no. 8 on L.R. Plot No. 7441, J.L. No. 88, Mouza-Kamaria, P.S. Joynagar, District-South 24 Parganas. The petitioner claims co-ownership over the said plot and contends that, in the absence of any partition by metes and bounds, respondent no. 8 has constructed a fertiliser shop thereon without obtaining any permission or sanction from the concerned Panchayat Authority. On such basis, the petitioner seeks demolition of the said construction for want of sanction.

From the instructions placed before this Court by the State, it appears that the petitioner has already instituted a partition suit against respondent no. 8, in

which an order of injunction has been passed directing the parties to maintain status quo.

The report further indicates that upon inquiry it was found that the fertiliser shop has been in existence for the last fifty-five years.

Although this Court is not in a position to conclusively ascertain the exact age of the structure, it is satisfied that the building in question is an old and longstanding construction.

Having consciously permitted the construction to subsist for decades and having approached this Court only at a belated stage, the petitioner cannot now be permitted to contend that the construction is being carried out without a sanctioned plan.

Such conduct squarely attracts the well-established principles of delay, acquiescence, and absence of bona fides. The writ jurisdiction under Article 226 of the Constitution, discretionary and governed by equitable considerations, cannot be invoked to revive an equitable right which the petitioner has clearly forfeited by his own conduct.

Furthermore, it is evident that the dispute between the parties is purely civil in nature, arising out of an alleged encroachment and competing claims of ownership. The petitioner cannot be permitted to impart a public law colour to a dispute that is fundamentally private, particularly at such a belated

stage. The writ court cannot be utilised as an alternative forum to secure indirectly what cannot be obtained 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 character to what is essentially a private conflict.

Accordingly, **WPA 26632 of 2025** is disposed of.

Urgent photostat certified copy of this order, if applied for, supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)