

20.01.2026
Item no.01
Ct. No.15
Suman

WPA 26630 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

Mr. Anis Datta Sarma v c
..for the State

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 plot in question and contends that, in the absence of any partition by metes and bounds, respondent no. 8 has constructed a tea stall on the said plot without obtaining any permission or sanction from the concerned Panchayat Authority. On this 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 tea stall has been in existence for the last forty years. It is also stated that approximately one year prior, respondent no.8 undertook certain repair works to the said brick-built tea stall.

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, being 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, wherein the petitioner alleges encroachment upon his land by the respondents. The petitioner cannot be permitted to impart a public law colour to a dispute that is fundamentally private in nature, 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 only to lend a semblance of a public law character to what is essentially a private conflict.

Accordingly, **WPA 26630 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.)