

20.01.2026
Item no.06.
Ct. No.15
Suman

WPA 26864 of 2025

Rakib Hossain @ Rafik Hossain
-vs-
The State of West Bengal and Ors.

Mr. Ziaul Haque
..for the petitioner

Mr. Reshmi Khatun
..for the private respondent

Mr. Nabhajit Prasad Basu
Mr. Saikat Sen
..for the State

The petitioner alleges unauthorized construction at the behest of respondent nos. 9 to 14.

The petitioner places reliance on a communication issued by the Pradhan of the concerned Gram Panchayat dated January 15, 2026, to contend that the building in question lacks any sanctioned plan from the Panchayat authority.

Learned counsel appearing for respondent nos. 9 to 14, on the other hand, submits that the building is an old structure and that a civil suit between the parties is pending, concerning the right, title and interest of the relevant property, in which the Civil Court has already granted an order of injunction.

From the photographs annexed to the writ petition, it is evident that the building was in existence even prior to the filing of the present writ petition.

Having consciously permitted such construction to continue and having approached this Court only after the completion of the structure, the petitioner cannot now contend that the construction was carried out without a sanctioned plan. Such conduct attracts the well-established principles of delay, acquiescence, and lack of bona fides. A writ court, applying settled principles of equity, would decline to grant relief in favour of a litigant who consciously allows a structure to be raised and thereafter seeks its demolition. 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 that the petitioner has clearly forfeited by his own conduct.

Further, it appears that the dispute between the parties is purely civil in nature, the petitioner alleging encroachment upon his land by the respondents. The petitioner cannot be permitted to impart a public law colour to a dispute that is essentially private in character, 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 merely to lend a semblance of a public law character to what is fundamentally a private conflict. The petitioner, having already availed of the remedy before the Civil Court for redressal of his grievance, cannot be permitted to re-agitate the same issues under the writ jurisdiction of this Court.

Accordingly, **WPA 26864 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.)