

03.02.2026
Sl. No. 21
g.b.
Court No.15

W.P.A. 28223 of 2025

Jasim Uddin Mir
Vs-
The State of West Bengal & Ors.

Ms. Pampa Dey (Dhabal)
Mr. Biswarup Chatterjee
Ms. Sarbani Datta
.....For the Petitioner
Mr. Sanjib Das
.....For the State

The affidavit of service filed in Court today is taken on record.

It is the allegation of the petitioner that respondent nos. 8 and 9 have undertaken unauthorised construction on L.R. Dag No. 989, R.S. Dag No. 960, J.L. No. 48, Khatian No. 23, Mouza–Chalk Kashipur, Touzi No. 388, District–South 24 Parganas.

The learned Advocate appearing for the petitioner submits that respondent nos. 8 and 9 have constructed a three-storied building under the scheme of Pradhan Mantri Awas Yojana. It is contended that the said scheme, which is intended for the upliftment of economically weaker sections in

rural areas, does not contemplate the construction of a three-storied building.

The petitioner made a representation to the Panchayat Pradhan by registered post, which was returned with the endorsement “unclaimed”. The petitioner, therefore, seeks an order directing initiation of demolition proceedings against the said building.

This Court, however, is not inclined to entertain the writ petition. It appears that the petitioner and respondent nos. 8 and 9 are brothers. The pleadings in the writ petition indicate that a partition suit is pending between the parties and that the construction was carried out in alleged violation of an injunction passed therein.

The stand of the writ petitioner is also inconsistent. Paragraph 8 of the writ petition suggests that the building was constructed without any permission from the Gram Panchayat authority, whereas the representation of the petitioner, appearing at

page 17 of the writ petition, suggests that the building was constructed under the Pradhan Mantri Awas Yojana.

This Court is satisfied that, even at the time of filing of the writ petition, at least a two-storied construction had already been completed. Having consciously permitted such construction to continue and having approached this Court only after substantial completion of the building, the petitioner cannot now contend that the construction was carried out without a sanctioned plan.

Such conduct squarely attracts the well-established principles of delay, acquiescence, and lack 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 upon his land by the respondents. The petitioner cannot be permitted to impart a public law character to a dispute that is essentially civil in nature, 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.

In the aforesaid circumstances, this Court is not inclined to entertain the writ petition.

Accordingly, **WPA 28223 of 2025** is dismissed.

(Kausik Chanda, J.)