

09.02.2026
Ct. No. 15
Sl. No.25
skg

W.P.A. 28437 of 2025

Rafiuddin Sekh & Ors
Vs.
The State of West Bengal & Ors.

Mr. Santanu Barik,
Ms. Nisha Agarwal,
Mr. Mozaffar Sk.,

...for the petitioner

Mr. Manas Kumar Sadhu,

...for the State

Mr. Sounak Bera,

...for the respondent no.13

Mr. Indrajit Roychowdhury,
Ms. Purnima Halder,
Mr. Sujan Roy,
Mr. M. Rahaman,

...for the respondent no.7 & 8

The petitioner alleges that unauthorized construction has been carried out at the instance of respondent nos. 7 to 13. It is contended that such construction was undertaken on the concerned plot of land without obtaining any sanctioned building plan.

The learned Advocate appearing on behalf of respondent nos. 7 & 8, however, submits that the construction has been in existence since the year 1974 and that no new construction has been carried out. It is further submitted that a partition suit is pending between the parties, in which the learned civil court has passed an order directing maintenance of status quo.

The learned Advocate appearing for the State, on the other hand, submits that upon inspection, the police authorities found the construction to be in existence since the year 2005 and that the structure is a residential building belonging to respondent nos. 7 to 13. The learned Advocate appearing for respondent no. 13 also reiterates that no new construction has been undertaken.

Having consciously permitted the 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 guided by equitable considerations, cannot be invoked to revive a right that the petitioner has clearly forfeited.

It further 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 private and 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.

Accordingly, **W.P.A. 28437 of 2025** is disposed of.

(Kausik Chanda, J.)