

09.02.2026
Ct. No. 15
Sl. No.35
skg

W.P.A. 28757 of 2025

Goutam Bose
Vs.
The State of West Bengal & Ors.

Mr. Souvick Mitra,
Mr. Debdipto Banerjee,
Mr. Soumen Banerjee,
...for the petitioner

Mr. Jaharlal Ray,
Ms. Kavita Rani,
....for the respondent

Mr. Biswajit Dutta,
....for the State

The petitioner has filed this writ petition alleging unauthorized construction by his mother and brother, who are respondent nos. 4 and 5, respectively.

It is submitted by the petitioner that the land in question, on which the alleged unauthorized construction has been carried out, originally belonged to his late father and was inherited by the petitioner and the said respondents. The petitioner contends that respondent nos. 4 and 5, without his consent, have undertaken certain construction activities on the said plot. It is further alleged that no consent was obtained from the petitioner, and the construction work lacks any sanction from the Panchayat authority.

From the photographs annexed to the writ petition, it is evident that, at the time of filing, the relevant construction, namely a room, had already been completed. It may also be noted that there is no absolute prohibition on making construction on jointly owned property in the absence of consent from other co-sharers [**See: (2008) 2 CHN 396 (Yograj Gurung v. Aikon Network Marketing Private Limited)].**

Having consciously permitted the construction to continue and approaching 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 engages 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 revive a right that the petitioner has clearly forfeited.

Further, it appears that the dispute between the parties is purely civil in nature. 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.

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

Accordingly, **W.P.A. 28757** is dismissed.

(Kausik Chanda, J.)