

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

Ct.551 10.11.25

Item No.05 Sws.M

WPA 1999 of 2025

Maqsood Alam &Anr.

Vs

State of West Bengal & Ors.

Mr. Tarique Quasimuddin
Ms. Zainab Tahir

...for the petitioner

Mr. M.P. Chakraborty
Ms. Priya Ghosal

....for the State

1. Affidavit of service filed in Court today is taken on record.
2. None appears for the respondent No. 4.
3. State is represented.
4. The petitioners are aggrieved by the inaction of the respondent Nos. 2 and 3 in considering the petitioners' representation dated December 23, 2024 whereby the petitioners have requested the said authorities to refund a sum of Rs.9,31,720/- paid by the petitioners by way of stamp duty under a challan for deposit of money in the account of the Government of West Bengal vide T.R. Form No. 7 dated September 18, 2014. It is submitted that the petitioners had put in such amount towards deficit of stamp duty in terms of an order dated November 19, 2014 passed by the learned Civil Judge (Senior Division), 2nd Court at Alipore in Title Suit No. 1629

of 2011 (Dr. Maqsood Alam & Anr. vs. Mansoor Alam) (page 75 of the writ petition).

5. The said suit had been filed for specific performance of contract for sale of a flat by the Defendant (Respondent No. 4) in favour of the petitioner. The direction for putting in the deficit stamp duty had been passed pursuant to impounding of the agreement for sale.
6. The petitioners further submits that as the suit in which the aforesaid direction was passed by the learned Civil Judge (Senior Division) at Alipore, was ultimately dismissed for non-prosecution by an order date August 19, 2024 therefore the agreement for sale in respect whereof such amount was directed to be deposited never matured into conveyance. It is submitted that petitioner is entitled to refund of the stamp duty since the conveyance never fructified.
7. This Court is of the view that the question as to whether the petitioners are entitled to refund of the aforesaid sum of Rs.9,31,720/- or not should at the first instance be decided by the respondent No. 2 in the facts and circumstance of the case and not this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India.
8. In such view of the matter, the respondent No. 2 is requested to dispose of the petitioners' representation dated December 23, 2024 (annexure

P8 at pages 144 to 146 of the writ petition) within a period of four weeks from the date of communication of this order by passing a reasoned order upon affording an opportunity of hearing to all the parties, strictly in accordance with law. While dealing with the petitioners' representation, the respondent No. 2 shall be entitled to call for such additional information and documents as may be required by the respondent No. 2 for the purpose of taking a decision in the matter and the petitioner shall be obliged to furnish the same to the respondent No. 2.

9. It is clarified that this Court has not gone into the merits of the matter and all points are left open, to be decided by the respondent No. 2, strictly in accordance with law.
10. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of necessary formalities.

(Om Narayan Rai , J.)