

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

(APPELLATE SIDE)

WPA 7999 of 2026

Mosaraf Ali Mallick

-Versus -

The State of West Bengal & Others

Md. Mozammel Hossain

Mr. Sandipan Maity

.....for the petitioner

Mr. Wasim Ahmed

Mr. Harun Al Rashid

.....for the State respondents

1) Affidavit of service filed on behalf of the petitioner is taken on record.

2) Learned advocate representing the petitioner submits that there was breach of contractual obligation which compelled the petitioner to approach this Court with the present writ petition. It is submitted that in terms of the agreement made by and between the petitioner and private respondents though payment was made by the petitioner but sale of the property was not executed. It is also submitted that a complaint was lodged by the petitioner before the concerned police authority but same has not been transformed into FIR.

3) Learned advocate for the State respondents has opposed this writ petition. A communication dated 6th April, 2026 of Officer-in-Charge of Metiabruz Police Station, Kolkata has been filed on behalf of the State

respondents and same is taken on record. Copy of said communication is made over to learned advocate for the petitioner.

4) It is disclosed in said communication dated 6th April, 2026 that on preliminary enquiry and questioning the parties to this writ petition no cognizable offence was found to have been committed.

5) In view of the submission made on behalf of the petitioner and taking note of the contents of communication dated 6th April, 2026, it appears that petitioner prays for direction upon the concerned police authority to initiate criminal prosecution against the private respondents upon registering FIR.

6) Due to availability of alternative remedy under section 175(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 present writ petition is not entertained. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court reported in **(2007) 6 SCC 171 (Aleque Padamsee and Others Vs. Union of India & Others)**.

7) Hence, writ petition stands dismissed.

8) However, this order shall not preclude the petitioner to approach the jurisdictional Magistrate in pursuit of his remedy.

9) Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)