

W.P.A. 9855 of 2026

Atanu Kumar Sett

-vs-

The State of West Bengal & Ors.

Mr. Argha Banerjee

....for the petitioner.

Mr. Partha Chakraborty,  
Ms. Sneha Chatterjee

....for the State.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. It is alleged on behalf of the petitioner that petitioner being developer sold out a flat to respondent no.5 but consideration price was entirely not paid to the petitioner.
3. When petitioner demanded rest of the consideration price for selling a flat to respondent no.5, it is alleged that petitioner was beaten up. Prayer is made in this writ petition for directing the police authorities to investigate the issue by initiating a criminal prosecution.
4. However, it is submitted by learned advocates representing the petitioner and State respondents that as on date no FIR is registered.
5. Considering the case made out in the writ petition

if petitioner finds that sale price is not entirely paid to the petitioner for selling a flat to respondent no.5, in that event petitioner needs to approach civil court for specific performance of contract.

6. Grievance is expressed on behalf of the petitioner that complaint of the petitioner lodged against respondent no.5 is not taken into consideration as a result whereof FIR is not registered and investigation has not commenced.
7. If petitioner is aggrieved by inaction on the part of the police authorities in not registering FIR, in that event there is an alternative remedy available to the petitioner under Section 175(3) of BNSS 2023 by approaching jurisdictional Magistrate.
8. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court, reported in **(2007) 6 SCC 171 (Aleque Padamsee & Ors. -vs. Union of India & Ors.)**.
9. Hence, writ petition is not entertained and stands dismissed.
10. However, this order shall not preclude the petitioner to approach the jurisdictional

Magistrate, in pursuit of remedy.

11. Parties to act on the server copy of this order duly downloaded from the official website of this Court.

**(Saugata Bhattacharyya, J.)**