

19.02.2026
Item No.23
PG/
Ct. No.1

**M.A.T. 2192 of 2025
With
I.A. No. CAN 1 of 2026
With
I.A. No. CAN 2 of 2026
Pravash Hazra
Versus
State of West Bengal & Ors.**

Mr. Sujit Banerjee
Mr. Nilay Sengupta
Ms. Sunanda Samanta
Mr. M. Gupta.....for the petitioner

Mr. Jayanta Samanta
Mr. Supriyo Mazumder.....for the State

PER, PARTHA SARATHI SEN, J.:

Re: I.A. No. CAN 1 of 2026

1. Affidavit of service, as filed today on behalf of the appellant is taken on record.
2. The appellant and the respondent/State are represented by their respective learned counsels. None appears on behalf of the private respondents despite service.
3. This is an application for condonation of delay in filing the instant appeal.
4. On careful perusal of the entire materials, as placed before this Court and after hearing the learned advocates for the contending parties,

we are satisfied that the writ petitioner/appellant is successful in explaining the delay of 184 days in filing the instant appeal.

5. Accordingly, the delay in filing the instant appeal is hereby condoned.

6. With the aforementioned observations, I.A. No. CAN 1 of 2026 is disposed of.

Re: M.A.T. 2192 of 2025

7. The instant appeal takes exception to the judgment and order dated 15.05.2025, as passed by the learned Single Bench in W.P.A. 11067 of 2023. On perusal of the prayer portion of the writ petition, it appears that the first prayer, which has been made before the learned Single Bench is for issuance of appropriate writ/writs against the respondent authorities, more specifically against the respondent no. 4 authority being the Officer-in-Charge of Khardah Police Station, District-North 24-Parganas to take appropriate steps to register a complaint on the letter dated 22.12.2022. Prayer (b) of the writ petition deals with the

issue of writ of Mandamus against the respondent authorities, more specifically the respondent no. 4 authority to restrain the private respondent nos. 5 and 6 from entering into the premises in question.

8. At the time of hearing, learned advocate appearing on behalf of the writ petitioner/appellant, at the very outset, draws our attention to page no. 42 of the stay application being I.A. No. CAN 2 of 2026 being a copy of the written complaint dated 22.12.2022, as has been lodged with the respondent no. 4 authority by the writ petitioner/appellant. It is submitted that despite receipt of such complaint in writing, which according to the writ petitioner, discloses a cognizable offence, the respondent no. 4 authority being the jurisdictional O.C. did not take care of such complaint and no P.S. case was started.

9. It is further submitted that on perusal of the order impugned, it would reveal that the learned Single Bench while passing the

impugned judgment, has miserably failed to consider such aspect and thus, mechanically passed an order giving liberty to the writ petitioner/appellant herein to approach the jurisdictional magistrate by invoking the relevant provisions of law.

10. In his next limb of submission, learned advocate appearing on behalf of the writ petitioner/appellant vehemently contended that since on account of an agreement for sale, the writ petitioner being a developer received some money from the private respondents, which was, however, subsequently returned to the private respondents, even then the private respondents have entered into the property in question thereby dispossessing the writ petitioner and for this, the prayer as has been made before the learned Single Bench for passing an appropriate writ to restrain the private respondents from entering into the property as well as to ensure that there is no breach of peace is quite justified which the learned Single Bench failed to appreciate.

11. It is contended further that from the latter part of the impugned order, it would reveal that the learned trial Court also failed to visualise the genuine case, as made out by the writ petitioner/appellant before the learned Single Bench and on the contrary, said Single Bench came to a finding that since civil rights are involved in respect of the property in question, the writ petitioner/appellant may approach the civil law forum.

12. It is, thus, submitted on behalf of the writ petitioner/appellant that the learned Single Bench ought to have passed an order in favour of the writ petitioner/appellant while disposing the said writ petition inasmuch as a specific case has been made by the writ petitioner/appellant before the learned Single Bench regarding inaction and/or non-action on the part of the police authority despite submission of the aforementioned written complaint.

13. Learned advocate appearing on behalf of the respondent/State however, supported the impugned judgment.
14. This Court has meticulously gone through the entire materials, as placed before this Court and has given due consideration over the submissions of the learned advocates for the contending parties.
15. So far as the grievance of the writ petitioner/appellant with regard to non-registration of FIR on the basis of the written complaint dated 22.12.2022, it appears that it is trite that a writ petition is not maintainable before a High Court in the event a person approaches the High Court with a grievance that his FIR has not been registered by the police in view of the availability of the statutory alternative remedy.
16. Such view was taken by the Hon'ble Supreme Court in the reported decision of ***Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage & Ors.: (2016) 6 SCC 277.***

17. This Bench in the judgment of **Sourav Mitra vs. Swati Chakraborty Bhattacharya & Ors. [2025 SCC Online Cal. 9425]** has also taken the similar view by holding that for non-registration of FIR by a police authority on the basis of a complaint, the appropriate forum is not the High Court.
18. Keeping in view the proposition of law, as discussed in the foregoing two paragraphs, we, thus, find that the learned Single Bench is very much justified in not entertaining the prayer (a) of the writ petition and the said Single Bench is further justified by giving liberty to the writ petitioner to approach the jurisdictional magistrate.
19. So far as the remaining part of the impugned judgment is concerned, it appears to us that the allegations, as have been made in the writ petition regarding payment, refund of money and alleged trespass by the private respondents, those are required to be adjudicated by trial on evidence and the same cannot be decided in a writ petition because of

involvement of disputed questions of fact, which cannot be determined by a writ Court since the writ Court has no machinery to record the evidence, as would be adduced by the parties.

20. This Court, thus, is in agreement with the view taken by the learned Single Bench, whereby and whereunder the learned Single Bench has granted further liberty to the writ petitioner/appellant herein to approach the common law forum.

21. In view of the discussions made hereinabove, we, thus, find no merit in the instant appeal. Accordingly, the instant appeal is dismissed. Consequently, I.A. No. CAN 2 of 2026 is also dismissed.

22. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)