

Ct.No.19 D/L 14.07.2026
05

Saikat
Mukherjee

WPA/25868/2025
RANJAN MONDAL
VS.
STATE OF WEST BENGAL AND ORS.

Mr. Sushanta Kr. Rakshit, Adv.

....For the Petitioner

Mr. Nilanjan Bhattacharjee, Sr. Standing Counsel

Ms. Jayita Dhar Chakraborty, Jr. Govt. Adv.

Mr. Nilanjan Pal, Adv.

Mr. Swapnamoy Sarkar, Adv.

...For the Respondent-State

1. The writ petitioner and Respondent-State are represented by their respective learned counsel.
2. Affidavit-of-service filed on behalf of the writ petitioner is taken on record.
3. By filing the instant writ petition the writ petitioner has prayed for appropriate writ/writs against the respondent authorities, more specifically against the Respondent Nos.3 and 4 authorities commanding them to extend long-term mining lease which was executed on 26.04.2017 and registered on 02.05.2017.
4. At the time of hearing, Mr. Pal, learned advocate appearing on behalf of the Respondent-State, at the very outset, places server copies of the order dated 14.12.2022 as passed by a co-ordinate Bench in WPA 5849 of 2022 and another server copy of the

order dated 20.08.2024 as passed by the selfsame co-ordinate Bench in CPAN 1673 of 2023.

5. Challenging the maintainability of the instant writ petition Mr. Pal contends that the subject-matter of the instant writ petition is identical with the earlier round of litigation, that is, in WPA 5849 of 2022 and, therefore, the instant writ petition is barred by *res judicata*. It is further submitted by Mr. Pal that in WPA 5849 of 2022 the Respondent No.2 therein, that is, the A.D.M. and D.L.&L.R.O., Bankura, was directed to take appropriate steps for refund of the amount as has been stated in the letter of the writ petitioner within a stipulated period. It is submitted by Mr. Pal that admittedly the said amount could not be refunded and as a result whereof, the aforementioned contempt application has been filed.
6. It is further submitted by Mr. Pal on instruction that the said amount is now ready and the A.D.M. and D.L.&L.R.O., Bankura, is ready and willing to pay the said sum to the writ petitioner, in the event, the writ petitioner provides the details of his bank account.
7. In course of his argument, Mr. Rakshit, learned advocate appearing on behalf of the writ petitioner, has filed a copy of the earlier writ petition being WPA 5849 of 2022. It is submitted by Mr. Rakshit

that the instant writ petition is very much maintainable in view of the fact that in terms of Rule 4(2) of the West Bengal Minor Minerals Concession Rules, 2016 ('Rules of 2016' in short) the Respondent-State is duty-bound to extend the long-term mining lease as has been executed on 26.04.2017 and as has been registered on 02.05.2017.

8. Since in course of his argument, Mr. Pal raises the point of maintainability of the instant writ petition, basically on the ground of *res judicata*, this Court, at the very outset, proposes to look to section 11 of the Code of Civil Procedure which deals with the subject of *res judicata*. Section 11 of the Code of Civil Procedure reads as under:-

"11. Res Judicata:- No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I.-- The expression former suit shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.

Explanation II.-- For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation III.--The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation IV.-- Any matter which might and ought to have been made ground of defence or

attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation V.-- Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.

Explanation VI.-- Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating .

Explanation VII.-- The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

Explanation VIII.-- An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised."

- 9.** At this juncture, this Court also proposes to look to Rule 53 of the Rules of High Court at Calcutta relating to Applications under Article 226 of the Constitution of India ("Rules" in short). Rule 53 of the said Rules is quoted hereinbelow in verbatim:

"53. Save and except as provided by these Rules and subject thereto, the provisions of the Code of Civil Procedure (Act V of 1908) in regard to suits shall be followed, as far as it can be made applicable, in all proceedings under Article 226 and nothing in these Rules shall be deemed to limit or otherwise affect the inherent power of this Court to make such orders as may be necessary for the end of justice or to prevent abuse of the process of the Courts."

10. Keeping in mind the aforementioned legislative provision and the aforementioned rule, if I look to the factual aspects as involved in the instant writ petition as well as in the earlier writ petition being WPA 5849 of 2022, it appears to this Court that the parties to the instant writ petition and the parties in WPA 5849 of 2022 are more or less identical. On comparative study of the pleadings of the instant writ petition and the pleadings of WPA 5849 of 2022, it appears that the subject-matter of both the writ petitions pertains to Sand Block No.0108DR018 in Mouza-Sahapur in Plot No.429 under P.S.-Onda in the District of Bankura.

11. It further appears to this Court that in both the writ petitions the subject-matter of the lease is same and identical, that is, the lease as has been executed by and between the writ petitioner and the Respondent-State on 26.04.2017 and as has been registered on 02.05.2017. It further appears to this Court that the prayers made in the earlier writ petition are similar to the present writ petition.

12. Materials have been placed before this Court that in WPA 5849 of 2022 a co-ordinate Bench of this Court disposed of the said writ petition commanding the A.D.M. and D.L.&L.R.O., Bankura, to take appropriate steps to refund the amount as has been stated in the letter of the writ petitioner.

On perusal of the prayers of the instant writ petition it reveals that in the instant writ petition the writ petitioner has also approached this Court with a similar prayer for refund of the same amount.

13. Such being the position, this Court finds no other alternative but to hold that the instant writ petition is barred under the provision of *res judicata* since the matter in issue in the instant writ petition is directly and substantially in issue in the earlier writ petition.

14. With the aforementioned observations, the instant writ petition is **dismissed**.

15. There shall be, however, no order as to costs.

(PARTHA SARATHI SEN, J.)