

WPA 20927 of 2021

Siratam Karmakar & ors.
Vs.
G. E. Power India Limited & Ors.

Mr. D. N. Roy,
Mr. Sourav Halder,

...for the petitioners.

Mr. Soumya Majumder,
Mr. Bhaskar Mukherjee,
Ms. Debjani Ghosh,

...for the respondent no.1.

Mr. Sharanya Chatterjee,
Mr. Nepesh Majhi,

...for the respondent no.5.

Mr. Chandi Charan De,
Ms. Reshmi Rehman,

...for the State.

The contention of the petitioners, in a nutshell, is that they are retired employees of the respondent no.1 and were allotted residential quarters by the company while in service. Following superannuation of the petitioners, the company filed an eviction case under Section 452 of the Companies Act, 2013 against the petitioners before the learned Additional Chief Judicial Magistrate, Durgapur and by an order dated 17th April, 2019, the learned Additional Chief Judicial Magistrate dismissed the application of the company and the trial before the Court is still pending. Against the said dismissal, the company moved before this Court in Criminal Revision and by a judgment dated 17th June, 2020 in CRR 2589 of 2019 a coordinate Bench of this Court granted one year's time to the opposite parties therein for vacating the quarters in

question. The Court also granted liberty to the company to invoke the provisions of law for giving effect to the order in the event the quarters was not vacated by the opposite parties within the stipulated period of time. The opposite party Sitaram Karmakar filed a Special Leave Petition before the Hon'ble Supreme Court against the said order and by an order dated 8th October, 2021 the Hon'ble Supreme Court refused to interfere with the judgment passed by this Court.

Learned counsel for the petitioners submits that the earlier revisional application was with regard to eviction of the petitioners from the property in question whereas the petitioners in the present writ petition seek permanent allotment of the quarters in their favour by the company.

Referring to the judgments passed by the coordinate Bench of this Court as well as by the Hon'ble Supreme Court, learned counsel for the first respondent submits that the present writ petition is only an abuse of the process of law as identical issue has been decided by the coordinate Bench and has been affirmed by the Hon'ble Supreme Court. As such, the present writ petition is barred by the principles of *res judicata*.

It is submitted by learned counsel for the fifth respondent that there have been several communications between the first and the fifth respondent with regard to a proposal initiated by the company to return certain

quantum of land to be allotted for settlement of their employees.

It is a fact that the case before the learned Additional Chief Judicial Magistrate is under Section 452 of the Companies Act, 2013 for eviction of the petitioners from the quarters in question whereas, the petitioners in this writ petition, have prayed for permanent allotment of said quarters in their favour. The issue of occupation of the quarters by the writ petitioners has been discussed at length and decided in CRR 2589 of 2019 and the writ petitioners who were the opposite parties therein were granted breathing time for one year from the date of the order to vacate the premises in question.

The issue in the revisional application as well as the present writ petition is identical. In the revisional application, the writ petitioners were directed to vacate the quarters in question on or before 30th June, 2021. The Hon'ble Supreme Court has affirmed the said order of the coordinate Bench of this Court by an order dated 8th October, 2021. In my considered view, the issue with regard to retention of the quarters in question by the petitioners being finally decided in the revisional application, the same issue as raised in the present writ petition cannot be entertained, being barred by the principles of *res judicata*.

It is trite law that principles of *res judicata* applies to applications under Article 226 of the Constitution of India

and in view of identical facts in issue being decided earlier by a coordinate Bench of this Court, the present writ petition is barred by the principles of *res judicata*. Consequentially, the writ petitioners are not entitled to any relief in the present writ petition and as such, the writ petition being WPA 20927 of 2021 is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)