

14.03.2023.  
p.b.  
Sl. No.23.

WPA 3576 of 2023

Orchid Mercantiles Pvt. Ltd. & Anr.  
Vs.  
The Assistant Director of Income Tax  
(investigation) & Ors.

Mr. Md. Mokaram Hossain,  
Mr. Kum Kum Mukherjee,  
Mr. Sandipan Maity.  
.....for the petitioner.  
Mr. Manmeet Singh Arora,  
Mr. Soumen Bhattacharya.  
.....for the respondent no.2 & 3.

Heard learned advocates appearing for the parties.

This is the second round of litigation initiated by the petitioner by filing this writ petition. It appears from record that the whole cause of action arises out of the impugned proceedings initiated under the Prohibition of Benami Property Transaction Act, 1988, by the authority in Hyderabad and Chennai. It also appears from record that on earlier, writ petition filed by the petitioner being WPA No.1189 of 2023, was against the same cause of action of initiation of proceeding under the aforesaid Act by the respondent authority concerned at Hyderabad and Chennai, was dismissed by this Court by order dated 1<sup>st</sup> February, 2023. It appears that the subject matter of challenge in the said writ petition was the impugned order dated 23<sup>rd</sup> December, 2022 which was issued by the

investigation authority at Hyderabad and the subsequent notice dated 12<sup>th</sup> January, 2023 which was issued by the investigation authority at Chennai and the said writ petition was dismissed by this Court by order dated 1<sup>st</sup> February, 2023, on the ground of lack of territorial jurisdiction and the said order of this Court dated 1<sup>st</sup> February, 2023 has not been challenged any further by the petitioner before any higher forum. It is strange that how the very same impugned order and notice issued by the very same authority can be challenged again in this writ petition which is clearly hit by the principle of res judicata. Since the whole cause of action is based on the proceeding initiated under the relevant provision of the Prohibition of Benami Property Transaction Act by the investigation authority at Hyderabad and Chennai and the appeal against the final adjudication will lie before the appellate authorities at Hyderabad and Chennai, I am not inclined to entertain this writ petition, on the ground of lack of territorial jurisdiction without going into the merit of the case and particularly in view of my earlier order dated 1<sup>st</sup> February, 2023 passed in WPA No.1189 of 2023, in case of the same petitioner.

In view of the discussions made above, this writ petition being WPA 3576 of 2023 is dismissed.

**(Md. Nizamuddin, J.)**