

WPA 4232 of 2022

Anup Bouri
Vs.
The State of West Bengal & Ors.

Adv. Koushikee Banerjee,
...for the petitioner.
Adv. Bijoy Kumar,
...for the respondent nos. 8 to 11.
Adv. Chandi Charan De,
Adv. Somnath Mukherjee,
...for the State.

Heard learned counsels for the parties.

It is submitted on behalf of the petitioner that the appeals preferred by the petitioner against the orders passed in the earlier writ petitions have been dismissed for non-prosecution.

Challenging the maintainability of the writ petition, learned counsel for the respondent nos. 8 to 11 submits that the writ petition is barred by the principle of *res judicata* as the matter in issue in the present writ petition has been decided on merits in an earlier writ petition filed by the petitioner.

Learned counsel for the petitioner submits that though prayers in both the writ petitions are identical, the notice issued by the Eastern Coalfields Limited on 9th May, 2017 was not placed before the court in the earlier writ petition and was, therefore, not considered. Learned counsel submits that the said notice was not with the petitioner when the earlier writ petition was disposed of.

It is not in dispute that the prayers in the present writ petition are almost identical to that of the earlier writ petition being WP No.12167 (W) of 2017 which was dismissed on merits by an order passed on 5th July, 2017. The only document which is heavily relied upon by the learned counsel for the petitioner was issued on 9th May, 2017 whereas the order in the earlier writ petition was passed on 5th July, 2017. Therefore, it can be presumed that the notice dated 9th May, 2017 was within the knowledge of the petitioner during the pendency of the earlier writ petition and was deliberately not placed before the Court at the relevant time. Moreover, the said notice alone cannot be said to be a fresh cause of action to file the present writ petition.

Since the cause of action in both the writ petitions are almost identical and the present writ petition does not contain a fresh or subsequent cause of action, the writ petition being WPA 4232 of 2022 is barred by the principles of *res judicata* and is therefore, dismissed.

There shall however, be no order as to costs.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)