

**Mili Chakraborty Ghosh
Vs.
The State of West Bengal & Ors.**

**Mr. Debasish Banerjee.
... for the petitioner.**

Despite service there is no representation on behalf of the State. The affidavit of service filed today be kept with the record.

By the impugned order the Tribunal dismissed the tribunal application solely on the ground that the same is barred by law. For the self-same relief the writ petitioner herein had earlier filed a tribunal application being OA 992 of 2012, which was dismissed for default on 17th July, 2013. The subsequent tribunal application was taken out for the self-same relief and the same has been dismissed, as the order dismissing the earlier tribunal application shall operate as res judicata or create a hurdle in maintaining the subsequent tribunal application on the self-same cause of action.

The principles enshrined under Order XI Rule 8 of the Code of Civil Procedure can be borrowed and applied in the instant case, where the applicant of the tribunal application did not appear on the day when the matter was called and the respondents appeared, the Tribunal could dismiss the proceeding except where the respondents have admitted the claim of the applicant either in whole or part. The principles enshrined under Order XI Rule 9 of the Code speaks about the embargo in maintaining the subsequent proceeding for the self-same reliefs based upon the same cause of action.

The Tribunal, in fact, applied the aforesaid

principles and dismissed the tribunal application on such ground, which we do not feel that it warrants any interference.

The writ petition is thus dismissed.

There will be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)