

Court No. - 40

Case :- WRIT - C No. - 28747 of 2023

Petitioner :- Abhai Kumar Srivastava

Respondent :- Oriental Insurance Company And Another

Counsel for Petitioner :- Rupesh Srivastav

Counsel for Respondent :- Ashish Agrawal, Anubhav Sinha, Om Prakash Gupta

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

By means of this petition, the petitioner has sought following principal reliefs:-

"I. Issue a writ, order or direction in the nature of mandamus commanding the respondent Insurance Company to pay the amount of Rs.22,38,470/- under protest in pursuance of his claim against policy No.223702/11/2011/333.

I. Issue a writ, order or direction in the nature of mandamus commanding the respondent/bank not to auction the property of the petitioner and give some time for depositing the aforesaid loan amount of Rs.40 lakhs."

The matter was taken up on 18.10.2023 and we have passed following order:-

"1. Heard Sri Rupesh Srivastav, learned counsel for the petitioner; Sri Anubhav Sinha, learned counsel for Oriental Insurance Company, District Basti (respondent no.1) and Sri Om Prakash Gupta, learned counsel for Union Bank of India (respondent no.2).

2. By means of this petition, the petitioner has sought following principal reliefs:-

"I. Issue a writ, order or direction in the nature of mandamus commanding the respondent Insurance Company to pay the amount of Rs.22,38,470/- under protest in pursuance of his claim against policy No.223702/11/2011/333.

I. Issue a writ, order or direction in the nature of mandamus commanding the respondent/bank not to auction the property of the petitioner and give some time for depositing the aforesaid loan amount of Rs.40 lakhs."

3. Learned counsel for the petitioner vehemently submitted that on account of non-release of the admitted amount of Rs.22,38,478/- by the insurance company under the aforesaid insurance, the petitioner is unable to clear the outstanding bank loan and on account of non-deposit, the bank is proceeding against the petitioner.

4. The matter was taken up in the first half of the recess and we asked learned counsel for the insurance company to obtain the instructions in the matter. In response thereof, it is informed to us that in case the petitioner submits the entire documents in response to the notice dated 04.07.2023, definitely the claim of the petitioner would be processed and the amount shall be released.

5. Considering the urgency in the matter, as the bank is proceeding against the petitioner, we deem it appropriate to ask the petitioner to submit the relevant documents to the first

respondent within three days from today. In case the same are furnished, the insurance company is further directed for ensuring the aforesaid amount in further a week's time so that the petitioner may clear the outstanding dues of the bank.

6. Put up this matter again as fresh on 01.11.2023 for further orders."

In response thereof, Shri Anubhav Sinha, learned counsel for Insurance Company has placed the detailed instructions alongwith statement of Axis Bank No.919020023040998 and submits that the grievance of petitioner, qua the claim set up before the Insurance Company, is already redressed.

Learned counsel for the petitioner has not disputed the said facts.

Considering the facts and circumstances, we are not inclined to proceed further in the matter as the claim set up by the petitioner is already addressed by the Insurance Company.

The matter is consigned to record. This order is passed with due assistance of Shri Om Prakash Gupta, learned counsel for Union Bank of India-second respondent.

Order Date :- 1.11.2023

A. Pandey