IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22374 of 2014

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Md. Qamruzzaman, son of Hazi Noorul Hoda through his authorized representative and son Parwaiz Qamar Proprietor M/s the Q.S Retail Opposite Catholic Church, Ashok Rajpath (resident of Bhid M/s Q.S Retail Opposite Catholic Church), P.O.- Bankipur, P.S. Pirbahore, Town & Dist. Patna.

.... Petitioner/s

Versus

1. The Universal Sompo General Insurance Company Ltd. Registered office of unit no. 401, 4th floor Sangam Complex, 127 Andheri Kurla Road, Andheri (East) Mumbai 400059.
2. The Manager (Claim), Universal Sampo General Insurance Co. Ltd. 1st Floor, Plot at Village Chuppepur, Ward- Sikro, Pargana-Shivpur Varansi (U.P.), 221003.
3. The Chief Manager, Universal Sampo General Insurance Co. Ltd. 402, Grand Plaza, Frazer Road, Patna 800001.
4. The Indian Overseas Bank, Customer Service Department, 763 Anna Salai, Chennai 600002.
5. The Branch Manager, Indian Overseas Bank, Main Branch, Maurya Centre, Frazer Road, Patna 800001.

.... Respondent/s

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Appearance :

For the Petitioner/s Mrs. Nilu Agarwal, Adv.
For the Indian Overseas Bank : Mr. Jitnedra Kumar Roy, Adv.
Mr. Shivendra Kumar Roy, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL ORDER

2 19-01-2015 Heard learned counsel for the parties as with regard to the following prayer made in this writ application:-

"1(i) For a direction to the respondent no.5 to freeze the C.C account No. 049802000001650 and C.C. Account no. 1349 w.e.f. 14.12.2012 / 15.12.2012 in the Branch of the Bank as burglary was committed on the night of 14-15/12.2012 and the Insurance company respondent no.1, 2 and 3 have repudiated the claim on an entirely frivolous and nonexistent exclusion clause No.13.

(ii) For quashing the letter dated 28th June 2013

whereby the claim of petitioner against loss of jewellery due to burglary has not been considered by the Insurance Company on the ground of exclusion clause 13 i.e. "The insurer will not liable if the loss and/or damage of property insured under section I whilst in display windows at night and/whilst kept out of safe after business hours' which was never informed to the petitioners nor agreement was entered to that effect.

(iii) For direction to the Insurance Company to make payment of Insurance claim which has been caused due to burglary which took place in the business premises of petitioners in the night of 14-15/12/2012.

(iv) For a direction to the respondent no.5 not to charge any interest on the two loan (C.C.) Accounts from 14-15/12/2012 as the stocks were insured and the Insurance company Respondent no.1, 2 & 3 are not making payment of the insured amount on a nonexistent ground."

The moment Mrs. Nilu Agarwal, learned counsel for the petitioner would accept that the petitioner has filed a Complaint Case No. 3/2014 before the State Consumer Dispute Redressal Commission, Bihar, Patna as also apparent from reading of paragraph no.21 & 22 of the writ application, there would be no question of this writ application being maintainable because if the petitioner is in any aggrieved on account of inaction or the order of the State Commission, the remedy for the petitioner will be before the National Consumer Forum.

That being so, this application is dismissed as being not maintainable.

(Mihir Kumar Jha, J)

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