IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2274 of 2015

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Ayush Tyre House through its proprietor Amit Kumar Singh resident of C C, 7. Besides Petrol Pump NH, Dinara, Dist- Rohtas, Bihar.

.... Petitioner/s

Versus

1. The General Manager, Allahabad Bank, 2, Netaji Subhash Road, Kolkata-700001. null null

2. Branch Manager, Allahabad Bank, Dinara Branch, Rohtas Dist- Rohtas.

3. Universal Sompo General . Insurance Co. Ltd, Express IT. Park, Plot No. EL-94. TTC Industrial Area, M.I.D.C, Mahape, Navi Mumbai,- 400710.

4. The Branch Manager, Universal Sompo General Insurance Co. Ltd. Dinara Branch at Dinara Chowk N.H. 30, P.O. Dinara Dist- Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Vivekanand Vivek, Advocate

For the Respondents No. 1 and 2 : Mr. Shiv Mohan Saha, Advocate

For the Respondents No. 3 and 4 : Mr. Durgesh Kumar Singh with Mr. Ritesh Kumar, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 10-03-2016

Heard learned counsel for the parties.

The petitioner has moved the Court for directing the respondents no. 3 and 4 to pay the insured amount along with interest and compensation and also to the respondents no. 1 and 2 to refund the security deposit with interest.

Learned counsel for the petitioner submits that his shop had a valid insurance cover from the respondents no. 3 and 4 and there was burglary committed in the same pursuant to which he applied for payment of the insurance amount but a ridiculously low amount has been paid. It is submitted that as per the insurance policy, the entries made in the registers, which was also verified from time to time by the officers of the respondent no. 4, an amount of only Rs. 7 Lakhs and odd has been paid whereas the claim was to the tune of over Rs. 24 Lakhs. Learned counsel submits that the basis for payment of such a low amount does not appear to be correct on facts and the petitioner has enough documents to prove his case. Learned counsel submits that on the one hand the full loss suffered within the insured limit has not been paid whereas on the other hand the respondents no. 1 and 2 are charging interest on his Cash Credit Account causing undue loss to the petitioner.

Learned counsel for the respondents submit that there being an equally efficacious remedy available to the petitioner by way of approaching the Insurance Ombudsman, the writ petition may not be entertained for the present. For such proposition, reliance has been placed on the decision of the Hon'ble Supreme Court in the case of

Baburam v. Zila Parishad reported in **AIR 1969 Supreme Court 556**, the relevant being at paragraph-3.

Learned counsel for the respondents no. 3 and 4 further submits that the amount of insurance money paid to the petitioner was based upon the report of the Surveyor which is binding on them and who is a person unconnected with the respondents no. 3 and 4. It is submitted that even with regard to the dispute which the petitioner may have, the same admittedly requires adjudication on facts, after verifying the records and in that view of the matter, the Court may not entertain the petition under its writ jurisdiction.

Faced with the situation, learned counsel for the petitioner submits that he may be permitted to withdraw the application with liberty to move before the Insurance Ombudsman but this Court may give protection to him inasmuch a timeframe be fixed so that the matter is not kept pending for too long. He further prays for liberty that if required, based on the decision of the Insurance Ombudsman, the respondents do not comply or compliance is not in terms of the requirement of law, he may approach this Court.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the writ petition stands disposed off as withdrawn with liberty, as prayed for by learned counsel for the petitioner.

If the petitioner moves before the Insurance Ombudsman within three weeks from today along with a copy of this order, the authority shall ensure that final orders are passed within six weeks thereafter.

To facilitate matters, the petitioner shall appear before the Insurance Ombudsman latest by 8th April, 2016. The Insurance Ombudsman shall thereafter fix a date within one week and the petitioner shall serve notice and also communicate the date fixed to respondents no. 2 and 4. The Insurance Ombudsman shall ensure that final orders are passed in the case latest by 31st May, 2016.

(Ahsanuddin Amanullah, J)

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