

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32605 of 2016 &
WMP No.28257 of 2016

M.Karthikeyan

... Petitioner

vs.

1.The Branch Manager
Indian Overseas Bank
Sriram Nagar, No.135, T.T.K.Road
Alwarpet, Chennai 18.

2.M/s The Universal Sompo General Insurance Co. Ltd.,
"Vajiram Towers", Flot No.103,
New No.44, Old No.39, Halls Road
Egmokre, Chennai 8.

3.Er.L.Shiva Shankar
(Surveyor/Loss Assessor/Chartered Engineer)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus to direct the first respondent to dispose of the petitioner's representation dated 10.03.2016, on merits.

For Petitioner :Mr.P.Venkateshan

O R D E R
सत्यमेव जयते

Heard Mr.P.Venkateshan, learned counsel appearing for the petitioner.

2.In this writ petition, the petitioner seeks for directing the first respondent to dispose of his representation dated 10.03.2016.

3.The petitioner borrowed a loan from the first respondent Bank for running an Industry. Due to recent floods, the petitioner's Factory was fully inundated and has substantiated the same before the Department. The petitioner insured the Factory, Building and Machinery with the second respondent Insurance Company. Though the petitioner did not know about the

second respondent Company, it appears that the Branch Manager of the first respondent Bank had recommended the second respondent Insurance Company. After the floods, the petitioner reported the matter to the Insurance Company through the Bank and an inspection was conducted by the Surveyor viz. the third respondent. However, the grievance of the petitioner is that pursuant to the survey, it appears that the Insurance Company has released certain amounts, which has been adjusted by the first respondent Bank, but the petitioner has not been furnished with copy of the Survey Report, Statement of Accounts, how the adjustment was made, etc. Therefore, the petitioner sent a representation via E-Mail to the second respondent Insurance Company and that was followed by a legal notice to the first respondent as well as the second respondent-Insurance Company dated 15.7.2016. In the said legal notice, the learned counsel for the petitioner called upon the first respondent to (i) return the insurance amount (ii) handover the proper statement of accounts to the petitioner, loan account and insurance claim as per the Rules of the Reserve Bank of India (iii) the Insurance Company to give proper details of insurance, inspection report and (iv) for furnishing Auditor's report.

4. For the said legal notice, the first respondent has issued a reply dated 06.08.2016, wherein they raised a demand on the petitioner and called upon him to pay Rs.59,69,710/-, failing which they threatened to take action against the security offered by the petitioner.

5. Thus, the above dispute is purely a dispute between the borrower and a lender and in this Petition, no writ of mandamus can be issued. Admittedly, the transaction is a contract between the petitioner and the first respondent. However, the petitioner should have been informed by the first respondent Bank as to how the adjustment has been made, what was the amount received from the Insurance Company, etc.

6. Hence, to that extent, there will be a direction to the first respondent to furnish a statement of accounts to the petitioner clearly mentioning as to the amount which was received from the Insurance Company along with Survey Report and how it was adjusted as against the loan amount and how the balance was arrived at. On receipt of those details, it is open to the petitioner to work out the remedies in accordance with law. The above direction shall be complied by the first respondent, within a period of four weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS IV)

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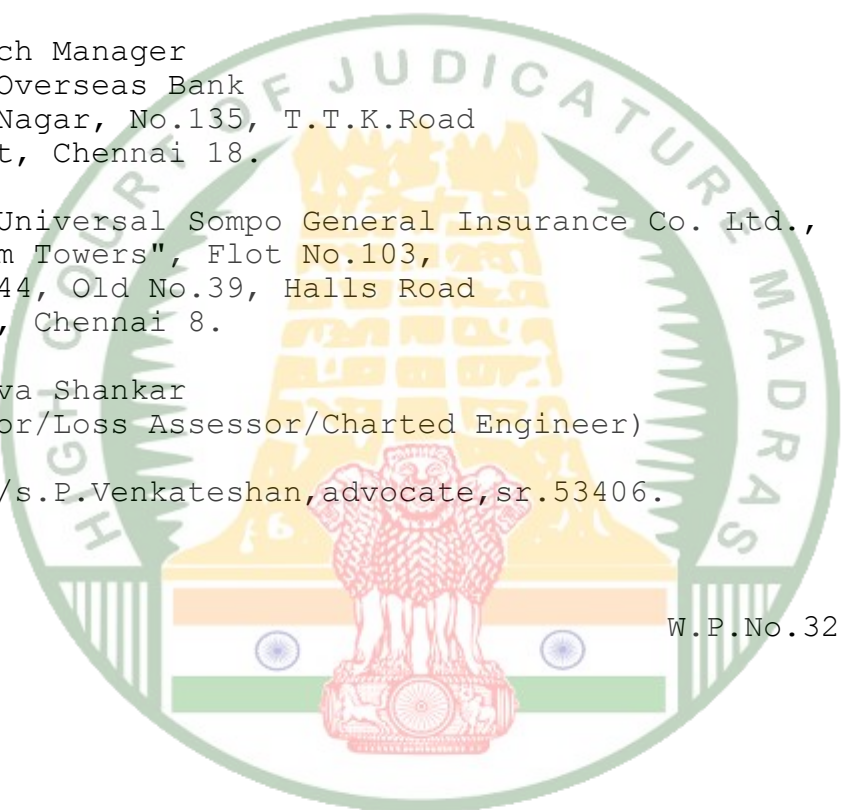
Sub Asst. Registrar

To

- 1.The Branch Manager
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 - 2.M/s The Universal Sompo General Insurance Co. Ltd.,
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Egmokre, Chennai 8.
 - 3.Er.L.Shiva Shankar
(Surveyor/Loss Assessor/Chartered Engineer)
- +1 cc to M/s.P.Venkateshan,advocate,sr.53406.

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krd 30/9

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