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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **LPA 765/2017**

KULBHUSHAN MADAN Appellant

Through : Mr Sumit Kumar, Advocate.

versus

**LIFE INSURANCE CORPORATION OF
INDIA & ORS**

..... Respondents

Through : Mr Sanjay Rawat, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **04.12.2017**

CM No.43792/2017(exemption)

Allowed, subject to all just exceptions.

LPA 765/2017

1. The Appellant is aggrieved by the rejection of his Writ Petition on the ground of laches in the proceedings for a direction to the Life Insurance Corporation (LIC) to hold a proper and thorough enquiry on the appellant's complaint dated 19.03.2007 regarding fraud on the policy, which resulted in loss to the extent of Rs.40 lakhs. The appellant submits that he was working as a Development Officer with the LIC. He submits that sometimes in January, 2006, he was approached by one Mr Anil Kumar Malik, who was also posted as the Development Officer with the LIC.

2. It is alleged that certain *inter se* transactions occurred between them wherein the Appellant issued a cheque in the sum of Rs.40 lakhs favouring LIC and that it was handed over to Mr Malik. The cheque was encashed on 27.05.2006.

3. It is stated that later the appellant realized that the amount was encashed towards a policy favouring Anil Kumar Malik. On this basis, it is submitted that Mr Anil Kumar Malik defrauded the petitioner. Mr Anil Kumar Malik died subsequently. Apparently, the appellant had also filed another suit against Mr Anil Kumar Malik for recovery of the amounts advanced to him. That suit was decreed.

4. The learned Single Judge, after noticing his facts, while dismissing the petition observed as follows:-

“.....10. The learned counsel for the petitioner had submitted that the petitioner did not initiate any action against LIC at the material time as he was apprehensive that officials of LIC would not approve of such action and the petitioner would incur their wrath. He further submitted that the petitioner continued to correspond with LIC to agitate his grievance. This Court is not persuaded to accept the above explanation. The sum of Rs.40 lakhs was a significantly large sum and the delay on the part of the petitioner in approaching this Court or instituting an appropriate action is not excusable.....”

5. Learned counsel urges that limitation and latches ought not to have been the basis of a decision in this case given that the LIC, a Public Corporation, under a duty to investigate all relevant facts and render a complete justice, submitted that *inter se* transactions *per se* premised upon assistance to Mr Malik to fulfil “top-up of the targets, which had been set

for by the LIC”, which had far greater volume of business, lent a helping hand and in good faith gave the cheque under belief that it would be used for genuine policies and not misappropriate by Mr Anil Kumar Malik.

6. It is submitted the rejection of the writ proceedings in these circumstances is plainly erroneous.

7. The conclusions of the learned Single Judge, in the opinion of this Court, were reasonable and justified. The Appellant has stated that he became aware about the alleged fraud sometimes in 2006-2007. It appears that he filed representation to the LIC thereafter.

8. The appellant also – like Mr Anil Kumar Malik, was a Development Officer at that time. He knew his rights as is evident from the suit, which was filed by him to secure the amount advanced to late Mr Anil Kumar Malik. It was perhaps then open for him to include this cause of action also or at any rate, if these facts were subsequent to those involved in that proceeding, institute a fresh suit.

9. The initiation of writ proceedings after ten years delay in the over-all circumstances of this case, as was correctly held, bars the petitioner of the relief sought. This Court further notices that the controversies in the subject matter are of the kind that would involve investigation of facts.

10. The Appeal, therefore, has no merit and is consequently dismissed.

S. RAVINDRA BHAT, J

DECEMBER 04, 2017/‘Sn’

SANJEEV SACHDEVA, J

