IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.08.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 3367 of 2018

M/s.Central Traders
A Partnership Firm
rep.by its Managing Director,
Mr.M.Rajavel,
No.64, Acharappan Street,
Chennai- 600 101. ... Petitioner

vs

1.National Insurance Co Ltd.,
Regional Office,
No.190, Anna Salai,
Chennai-600 006.

2.National Insurance Co Ltd,
Divisional Office,
169, Anna Salai,
Chennai-600 002. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to consider and settle the insurance claim of the petitioner covered under Policy No.500411/11/14/3300000093 - Fire Policy in terms of the representation of the petitioner dated 27.08.2017 culminating into the legal notice dated 31.10.2017.

For Petitioner : Mr.R.Ashwanth

For Respondents: Mrs.Nageswaran and Narichania
for R1 and R2

O R D E R

The relief sought for in this writ petition is for a direction directing the respondents to consider and settle the insurance claim of the writ petitioner covered under Policy No.500411/11/14/3300000093 - Fire Policy in terms of the representation of the petitioner dated 27.08.2017 culminating into the legal notice dated 31.10.2017.

2. Admittedly, the lis on hand arises on account of certain contractual obligation between the parties. Undoubtedly, the petitioner has paid premium for the insurance benefit. He was paying the same punctually. There was a fire accident in the business place of the writ petitioner on 12.04.2015 and on account of the huge financial loss, the writ petitioner claimed policy amount as per the terms and conditions of the policy. However, the respondents have not taken any decision in order to repudiate the claim of the writ petitioner for payment of the policy amount.

3. The learned counsel for the petitioner made a submission that the writ petitioner is constrained to move the present writ petition in view of the fact that the respondents have not considered the claim petition of the petitioner at all nor there is an order of rejection to that effect. Thus, the present writ petition is filed.

4. The learned counsel appearing for the respondents made a submission that the writ petition is not maintainable in view of the fact that the present writ petition is filed based on the terms and condition of the Policy Agreement. Thus, the writ petitioner has to adjudicate the matter before the competent Civil Court of law.

5. This Court is of an opinion that even a direction to consider the representation cannot be granted in this writ petition, in view of the fact that the very dispute arises between the parties on account of certain contractual obligation. By issuing a direction under Article 226 of the Constitution of India, fresh cause of action cannot be created for adjudication in the matter before the competent civil Court of law. In the event of not considering the claim petition filed by the petitioner factual inference has to be drawn and it is left open to the parties to adjudicate or draw of such inference before the competent Civil Court of law.

6. This Court is of an opinion that even for issuing a direction to consider the representation, the writ petitioner has to establish the legal right and in the absence of any such legal right for interference, then this Court will not be inclined to entertain such writ petition. This being the principles to be followed, it is left open to the respective parties to approach the competent authorities for the purpose of redressing their grievances.

7. The writ petition stands dismissed with the above observation. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.National Insurance Co Ltd.,
Regional Office,
No.190, Anna Salai,
Chennai-600 006.

2.National Insurance Co Ltd,
Divisional Office,
169, Anna Salai,
Chennai-600 002.

+1cc to Mr.R.Ashwanth, Advocate Sr.53928
+1cc to M/S.Nageswaran and Narichania, Advocate Sr.53852

W.P.No.3367 of 2018

srg 27/08/2018