IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12220 of 2017

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Anil Kumar Verma son of Late Sarju Prasad Verma Resident of Mohalla Maurya Vihar Colony, West Side of B.M.P.-16, P.O. and P.S.- Phulwarisarif, District- Patna.

... ... Petitioner/s

Versus

1. The Union Of India through its Secretary, Ministry of Finance, Govt. of India.
2. The State Bank of India through its Chairman.
3. The Chairman, State Bank of India its Corporate Office, Bombay.
4. The General Manager, the State Bank of India, Bihar Circle, Patna.
5. The Zonal Manager, the State Bank of India, Patna.
6. SBI Life Insurance Company Limited through its Managing Director.
7. The Managing Director, SBI Life Insurance Company Limited.
8. General Manager, SBI Life Insurance Company Limited.
9. The Manager, SBI Life Insurance Company Limited, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Ugranath Mallik, Adv.
For the UOI : Mr.Kumar Priya Ranjan, CGC
Mr. Niraj Kumar, Adv.
Mr. Girish Nandan Abhishek, Av.
For the SBI Life Insurance: Mr.Bindhayachal Rai, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

3 23-04-2019 Heard learned counsel for the petitioner, learned counsel representing the Insurance Company as well as the Union of India.

Petitioner, in this case, is aggrieved by the communication as contained in letter dated 01.12.2014 (Annexure-4) by which the claim of the petitioner has been rejected on the ground of suppression of material facts by the

Insurance Company. It appears that against the said repudiation of claim petitioner had moved to the Insurance Ombudsman where the argument of the petitioner as well as the Insurance Company were noticed and after hearing the parties, the Insurance Ombudsman recorded as follows:-

> *"The issue involved in this complaint centres round whether there has been suppression of the health condition at the time of proposing for insurance. The respondent have in defence of their decision produced a set of papers involving Doctor's certificate, prescription etc which indicated history of various complications. The complainant and his organization have submitted documents which are also indicative of various disease for which deceased was undergoing treatment. However, to establish that the treatment for the various diseases were being taken prior to the commencement of the policy or otherwise needs forensic examination of all such documents particularly a prescription and a certificate of Dr. S.K. Singh (while one is submitted by the complainant and other is by the defendant) which are contradictory in nature. Therefore, to establish the correctness and veracity of the documents a forensic examination is required and this forum doesn't have the wherewithal to do so. Therefore, the forum rescues itself from adjudicating in this case and an appropriate court would be able to do that."*

Learned counsel for the petitioner while filing this writ application has not challenged the decision of the Insurance Ombudsman. This Court finds from the reasons provided in the order of the Insurance Ombudsman that it is a disputed question of facts which would require taking of evidence by and on behalf of both the parties in order to establish the correctness and veracity of the documents. Sitting in its writ jurisdiction under Article 226 of the Constitution of India it would not be appropriate for this Court to adjudicate the disputed question of facts which require taking of evidence on behalf of the parties. The Insurance Ombudsman has rightly ordered that adjudication in the case may be done by the appropriate court.

This writ application is being disposed off with liberty to the petitioner to seek his remedy before the appropriate forum where the parties can adduce their respective evidences. If such an application is filed with all supporting materials within a period of 30 days from today, the same will be considered by the forum on its own merit. In case any question of limitation will arise, the same will be considered keeping in mind that the petitioner was pursuing his remedy before this Court.

(Rajeev Ranjan Prasad, J)

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