



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **11.09.2020**

CORAM

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P.(MD) No.13366 of 2019

A.Chellammal

... Petitioner

Vs.

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Regional Manager,
Oriental Insurance Company Limited,
Regional Office, 78, TPK Road, 2nd Floor,
Ramalinga Residency, Andalpuram,
Madurai - 625 003.

3.The Divisional Manager,
Oriental Insurance Company Limited,
Gopal Rao Library Building, 1st Floor,
Town Hall Road, Kumbakonam,
Thanjavur District.

4.The Branch Manager,
Oriental Insurance Company Limited,
94-E, South Kaliyamman koil Street,
Pattukkottai, Thanajvur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 2 to 4 herein to settle the insurance amount for the loss occurred due to the Gaja Cyclone to the petitioner's house situated at No.57/A4, Nagaram Road, Pattukkottai, Thanjavur District.

For Petitioner : Mr.P.Saravanakumar

For R1 : Mr.K.Sathiya Singh,
Additional Government Pleader

For R2 to R4 : Mr.E.Chandrasekaran

ORDER

This writ petition is filed seeking for a direction to the respondents 2 to 4 herein to settle the insurance amount for the loss occurred due to the Gaja Cyclone to the petitioner's house situated at No.57/A4, Nagaram Road, Pattukkottai, Thanjavur District.

2. The learned counsel appearing for the petitioner submitted that the petitioner is the owner of the petition mentioned property and she has paid the taxes also. In respect of the said property,



the petitioner insured before the respondents 2 to 4. Due to Gaja Cyclone, the petitioner's house was heavily damaged. The petitioner made a representation dated 19.04.2019 to the respondents/ Insurance Company. In that regard, the petitioner has received a letter from the respondents, stating that the policy particulars has been forwarded to the surveyor. The learned counsel for the petitioner also submitted that the surveyor has also inspected the property. Thereafter, no progress in this matter, hence the petitioner filed this present writ petition for seeking the aforesaid relief.

3. The learned Standing Counsel for the respondents 2 to 4 have filed a counter-affidavit and they have also filed a typed set of papers.

4. The learned Standing Counsel for the respondents 2 to 4 submitted that the petitioner has not covered under the insurance policy. Therefore, the petitioner is not entitled for the said relief. He has also relied upon the judgment of this Court in W.P.No.3367 of 2018, dated 06.08.2018, the relevant portion of the order is extracted here under:

" 5. This Court is of the 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 petitioner filed by the petitioner factual inference has to be draw 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."

4. Heard the learned counsel on either side and also perused the materials placed on records.

5.In view of the submissions made by the learned standing counsel and in the light of the above decision of this Court, this Court is of the view that the petitioner has to seek his remedy before the competent civil Court or before the appropriate forum.



6. Accordingly, this Writ Petition is dismissed with above terms. No costs.

Sd/-

Assistant Registrar (AD II)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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+1 CC to M/s.E. CHANDRASEKARAN, Advocate (SR-16734[F] dated 14/09/2020)

+1 CC to M/s.GP (SR-16844[F] dated 15/09/2020)

W.P. (MD) No.13366 of 2019
11.09.2020

SCR(CO)

KK(23.09.2020) 3P 7C

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