



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.39693 of 2015

and

M.P.No.1 of 2015

K.Prabagaran

Vs

... Petitioner

1. The Insurance Ombudsman,
Rep. by Deputy Secretary,
Fathima Akhtar Court,
4th Floor, New No.453, Old No.312,
Anna Salai, Teynampet,
Chennai - 600 018.

2. The Senior Divisional Manager,
United India Insurance Co. Ltd.,
Registered Head Office,
No.24, Whites Road,
Chennai - 600 014.

3. The Branch Manager,
United India Insurance Co. Ltd.,
Divisional Office,
No.46, J.N.Street,
Pondicherry - 605 001.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of writ of Certiorarified Mandamus directing the respondents to call for the records relating to impugned order vide Re.:CHN-G-051-1516-0283 dated 15.10.2015 passed by the 1st respondent and quash the same as highly illegal, unlawful, arbitrary and violative Rule 2, 3, 12 & 13 of Redressal of Public Grievances Rules, 1998 and consequently direct the 2nd and 3rd respondent to award compensation to the petitioner for damages caused to his Boat name in the style of "ESWARAN" bearing Registration No.IND-PY-PP-MM-768 insured with 2nd & 3rd respondent's insurance namely United India Insurance Co-Ltd., for a period from 16-11 Hours of 13.11.2014 to Midnight of 12.11.2015 vide Policy No.011700/22/14/01/00000122 covered under Marine Hull & Machinery Policy, which berthed at Thengaithittu Fishing Harbour, Vambakeerapalayam, Mugathuvaram Turning, Puducherry and



sank into seawater on 26.01.2015 due to ocean current, forthwith with reasonable interest.

For Petitioner

: Mr.Prakash Adiapadam

For 1st Respondent

: Mr.S.Masilamani

For Respondents 2 & 3

: Mr.Guruswaminathan

For M/s.Nageswaran & Narichania

O R D E R

The order dated 15.10.2015 passed by the Office of the Insurance Ombudsman rejecting the claim of the petitioner to settle the policy amount is under challenge in the present writ petition. The petitioner was an Insurance Policy Holder.

2.The learned counsel for respondents 2 and 3/United India Insurance Company Limited made a submission that the policy was repudiated by invoking the terms and conditions of the policy and therefore, the petitioner is not entitled for settling any compensation.

3. The learned counsel for the petitioner states that he has produced all the documents to establish his case and by invoking incorrect terms and conditions, the respondents repudiated the policy which is untenable and the Insurance Ombudsman also failed to consider the merits of the case.

4. The Ombudsman in the impugned order dated 15.10.2015 has stated that the decision of the Insurance Company is as per terms and conditions of the policy conditions. However, this Court cannot adjudicate such issues arose on account of contractual obligations between the parties. Such adjudication sought to be done with reference to the original documents, evidences and oral evidences if required. The High Court cannot exercise such a power in a writ proceedings under Article 226 of the Constitution of India merely based on the affidavit and relying on the xerox copies of the documents, such disputed issues cannot be decided and the parties are bound to establish their case in the manner prescribed under law. This being the nature of the proceedings which are to be gone into and the petitioner has approached the Ombudsman who in turn rejected their claim, thereafter, the petitioner has approached the competent forum/Court of law for the purpose of redressal of his grievances. Contrarily, the High Court cannot venture into the adjudication of such nature of disputes which arose on account of contractual obligation between the parties. Accordingly, the



petitioner is at liberty to approach the competent forum / Court of law for the purpose of redressing his grievances.

5. With these observations, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Deputy Secretary,
The Insurance Ombudsman,
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2. The Senior Divisional Manager,
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3. The Branch Manager,
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Pondicherry - 605 001.

+1cc to M/s.Nageswaran & Narichania, Advocate, S.R.No.54914

W.P.No.39693 of 2015

RSI (CO)
SU(15/11/2021)