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W.P. No.11353 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.11353 of 2019

R.Aravind

... Petitioner

Vs

1.United India Insurance Co Ltd,
Represented by its Divisional Manager,
Mo Office, 22-B11, Krishnaveni Complex,
Namakkal District.

2.United India Insurance Co Ltd,
Represented by its Branch Manager,
Pallipalayam Micro Office Branch,
Pallipalayam Post, Namakkal District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to pay the compensation for the vehicle bearing Registration No.TN 34 S 7315 under the head of stolen vehicle to the petitioner as per policy condition in Insurance Policy No.1706893115P115889283.

For Petitioner	: Mr.A.K.Velan for Mr.E.Sathyaraj
For Respondents	: Mr.S.Arun Kumar Standing Counsel



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ORDER

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The petitioner appears to have purchased a vehicle namely Multi Axle Goods Vehicle bearing Registration No.TN 34 S 7315, by obtaining a loan from Equitas Small Finance Bank Ltd. For the aforesaid loan, the two other persons stood as guarantor.

2.It is the case of the petitioner that the said vehicle was insured with the respondents herein and was lost on 02.11.2016. Therefore, the petitioner has made a claim with the respondent insurance company. However, the respondents have rejected the claim of the petitioner. Therefore, this writ petition has been filed.

3.The writ petition is opposed by the respondents on the ground that the alleged theft is said to have been taken place on 02.11.2016. However, the petitioner filed a complaint long after the alleged theft on 22.01.2017 before the Thiyyagapuram Police Station, Villupuram District. A FIR also came to be registered in Cr.No.32 of 2017 only on the same day i.e, 22.01.2017.



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4.It is submitted that the petitioner was called upon to furnish the photo copy of the documents viz., Registration Certificate and Insurance for verification to proceed further process the petitioner's claim. However, the petitioner failed to furnish the requisite documents and three reminders were sent on 08.11.2017, 14.02.2018 and 26.03.2019. Since the petitioner failed to furnish the document, the claim of the petitioner was closed. Thus, the claim of the petitioner closed as the petitioner failed to produce the documents.

5.The facts on record indicates that the petitioner had defaulted in re-payment of the loan and therefore the financier namely Equitas Small Finance Bank Ltd has invoked the arbitration Clause and filed a Arbitration case No.2045 of 2017. The petitioner appears to have defaulted in repayment of the loan for a sum of Rs.3,65,579/-. It is quite possible that the original of the documents were retained by the said financier.

6.The petitioner has allowed the arbitration proceedings to conclude by not participating in the aforesaid proceeding, though summons were served on the petitioner. It appears that the custody of the vehicle may be taken by the said financier from the petitioner as the petitioner had defaulted in repayment of loan.



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7.The petitioner has not filed any complaint before the police station till 22.01.2017. It is thus quite possible that financier may also have reposed the vehicle on account of failure of the petitioner to service the loan. There are several disputed question of facts involved in this case. Therefore, I am not inclined to entertain this writ petition. However, liberty is given to the petitioner to produce the documents that were solicited by the respondents in its letter dated 08.11.2017 followed by the reminders dated 14.02.2018 and 26.03.2019. In case, petitioner furnishes the same, the respondents may consider and settle the claim of the petitioner in terms of the insurance claim policy. If the petitioner furnish the required document within a period of eight weeks from the date of receipt of a copy of this order.

8.This writ petition stands disposed of with the above observations. No costs.

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Index: Yes/ No
Internet : Yes/No
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C. SARAVANAN, J.

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