17.08.2023
Item Nos.20-21
gd/ssd

MAT/1446/2023
IA NO: CAN/1/2023
DIPAK MAITI
VS
HDFC (HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED) AND ORS.
with
MAT/1451/2023
IA NO: CAN/1/2023
DOLI MAITI
VS
HDFC (HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED) AND ORS.

Mr. Pappu Adhikari
..for the Appellants.

Ms. Soni Ojha
..for HDFC.

1. These appeals are challenging a common order passed by the learned Single Bench in WPA 15689 of 2023 and WPA 15694 of 2023.

2. Both the writ petitions were filed by the appellants challenging an order passed by the Insurance Ombudsman.

3. The learned Single Bench has dismissed the writ petitions on the ground of maintainability. Questioning the said order, the appellants have filed these present appeals.

4. We have elaborately heard the submissions of the learned advocates for the parties.

5. We find that the challenge to the order of the Insurance Ombudsman is on the merits of the

matter as well as referring to certain policy conditions which, according to the appellants, are arbitrary and violative of Article 14 of the Constitution. The challenge to the order of the Insurance Ombudsman is on merits and not on any technicalities or on the decision making process. Admittedly, the dispute is between the appellants and the first respondent/Insurance Company which is a private Insurance Company. The appellants cannot seek to agitate the merits of the matter or, in other words, the grievances against the private Insurance Company in a writ petition in an indirect manner by challenging the order passed by the Insurance Ombudsman.

6. Being aggrieved by the order passed by the learned Single Bench that the appellants have to agitate the matter on merits before the competent Civil Court. In the event the terms and conditions of the insurance policy provide for certain remedies to the appellants, it will be well open to the appellants to exhaust such remedies. In any event the appellants had approached the Insurance Ombudsman who had considered the submissions of the appellants which pertained to a claim for refund of the premium after cancellation of the policy and the appellant i.e. Dipak Maiti had sought for refund of the premium after cancellation of the policy as Rs.10,45,000/- along with compensation.

7. This claim was considered and the Insurance Ombudsman had gone into the facts and passed an award holding that the complaints of the appellants are devoid of any merits.

8. Thus, the appellants are required to agitate the matter before the competent Civil Court, if so advised questioning the merits of the decision of the respondent Insurance Company which stood affirmed by the Insurance Ombudsman based on a complaint lodged by the appellants.

9. Therefore, we find no grounds to interfere with the order passed by the learned Single Bench.

10. Accordingly, these appeals stand dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)