

Court No. 1
(266111)

MAT 2205 of 2023

16.07.2024

(AD 31)

(S. Banerjee/AN)

Sri Milon Kumar Bhattacharya

Vs.

The New India Assurance Company Ltd. & Ors.

CAN 1 of 2023

Mr. Sujit Kumar Rath

Mr. Anirban Saha

...for the appellant

Mr. Avirup Mondal

Mr. Soumalya Ganguli

...for the respondent nos. 1, 3 to 5

1. This intra-court appeal has been filed by the writ petitioner challenging the order dated 06.09.2023 in WPA 13977 of 2023 by which the writ petition challenging the order dated 25th August, 2022 was dismissed on the ground that already an order have been passed in CPAN 1054 of 2022 dated 02.01.2023. The direction issued upon the respondent insurance company in WPA 16079 of 2015 dated 25.07.2022 is to consider the representations of the writ petitioner dated July 16, 2013 and March 7, 2014 upon giving prior hearing notice of at least seven days to the writ petitioner. The Court also fixed a time limit for complying with the said direction.
2. Alleging disobedience of that order, the writ petitioner filed CPAN 1054 of 2022 which was dismissed by order dated 02.01.2023 on the ground that the

respondent insurance company has repudiated the claim long back by taking into account the terms and conditions of the policy and a communication to the said effect has been issued to the writ petitioner dated 25.08.2022.

3. In the said writ petition the petitioner has challenged the order dated 25.08.2022.
4. In our view because of the order passed in CPAN 1054 of 2022 dated 02.01.2023, it cannot be said that the challenge has already been made to the letter given by the respondent insurance company dated 25.08.202.
5. Therefore, the order and direction issued by the learned Single Bench is modified leaving it open to the appellant to challenge the repudiation, if he is so advised, before the appropriate civil Court.
6. With the above observation, the appeal stands disposed of.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)