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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 14778/2023**

RAJNISH JINDAL

..... Petitioner

Through: Mr. R.K. Naroola, Mr. Udayan Mukerji, Ms. Jaya and Ms. Tanya Vats, Advocates.

versus

THE ORIENTAL INSURANCE COMPANY LIMITED

..... Respondent

Through: Mr. Apoorv Sarvaria and Ms. Yashika Sarvaria, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
24.05.2024

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1. The present Writ Petition has been filed challenging the Order dated 21.08.2023, passed by the National Consumer Dispute Redressal Commission, New Delhi, in Revision Petition No.927/2022.
2. The facts of the case reveals that the disputes between the parties arose due to an insurance policy issued by the Respondent herein. The said insurance policy was taken in Rajasthan. Disputes arose in Rajasthan. The complaint was filed before the District Consumer Disputes Redressal Forum, Udaipur and an appeal was filed before the State Commission at Udaipur and the Revision Petition against the Order of the State Commission was filed before the National Consumer Dispute Redressal Commission at New Delhi.

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3. The fact that National Consumer Dispute Redressal Commission is in New Delhi will not give jurisdiction to this Court to entertain this petition.

4. While dealing with similar fact, the Apex Court vide its order dated 04.03.2024 in **Civil Appeal Nos. 3915-3916 of 2024**, titled as Siddhartha S Mookerjee & Anr. v. Madhab Chand Mitter & Anr. has held as under:

“5. The grievance of the appellants is that the High Court of Delhi ought not to have entertained the petition filed by the respondent No.1 under Article 227 of the Constitution of India as it cannot be treated as a jurisdictional High Court in the instant case as has been referred to in M/s. Universal Sompo General Insurance Co. Ltd. Vs. Suresh Chand Jain & Anr⁴. He submits that the entire cause of action in the instant case has arisen in Kolkata. The respondent no.1 had filed a complaint⁵ against the appellants and the respondent no.2 before the District Consumer Dispute Redressal Forum, (Unit-I) at Kolkata, which was rejected vide order dated 13th October, 2017. Aggrieved thereby, the respondent no.1 had filed an appeal⁶ before the State Consumer Disputes Redressal Commission⁷, West Bengal, at Kolkata, which was allowed vide order dated 13th February, 2020. Dissatisfied by the said order, the appellants herein and the respondent no.2-Hospital filed review petitions before the NCDRC, that were allowed.

6. Initially, the respondent no.1 had filed petitions for special leave to appeal⁸ before this Court challenging the order dated 26th August, 2022, passed by the SCDRC. However, in view of the judgment of this Court in Universal Sompo (supra) liberty was granted to him to approach the jurisdictional High Court.

7. Treating the High Court of Delhi as the jurisdictional High Court, the respondent no.1 has filed petitions under Article 227 of the Constitution of



India. Notice was issued on the said petitions on 04th October, 2023, on the adjudication of jurisdictional aspect. This is what has brought the appellants before this Court.

8. Learned counsel for the respondent no.1 contends that the jurisdictional High Court in the instant case ought to be treated as the High Court of Delhi, inasmuch as the judgment impugned before the High Court was passed by the NCDRC at Delhi.

9. In our opinion, that can hardly be treated as a ground to invoke the jurisdiction of the High Court of Delhi. The respondent No.1 ought to have approached the High Court of Calcutta being aggrieved by the impugned judgment as the entire cause of action in the present case has arisen in Kolkata, where the patient was operated for ovarian cancer on 24th February, 2012, and expired on 30th July, 2014. The complaint case was filed at Kolkata based on the aforesaid cause of action. Merely, because the NCDRC has allowed the revision petitions filed by the appellants and the respondent no.2 would not be a ground to vest jurisdiction in the High Court of Delhi.

10. Accordingly, the appeals are allowed. The petitions filed before the High Court of Delhi are disposed of with liberty granted to the respondent no.1 to approach the High Court of Calcutta for seeking appropriate relief. In the event the respondent no.1 files a petition before the High Court of Calcutta within four weeks from today, the appellant herein shall not raise any objection as to the maintainability of the said petition on the ground of limitation. It is further directed that in this duration, the appellants shall not rely on the order passed by the NCDRC. ”

5. Though learned Counsel for the Petitioner also placed reliance on the



Judgment dated 20.02.2024, passed by the Division Bench of High Court of Judicature for Rajasthan Bench at Jaipur in **D.B Special Appeal Writ No.157/2024**, titled as Rajeev Chaturvedi v. Commissioner, Jaipur Development Authority, Ramkishore Vyas Bhawan and Anr., wherein the Division Bench of the Rajasthan High Court refused to entertain a Writ Petition against an Order passed by the NCDRC, Delhi on the ground that a Petition under Article 227 would not be maintainable as the Court cannot have superintendence over NCDRC which is in Delhi. The Judgment of the High Court of Rajasthan cannot be taken into consideration in view of the Judgment passed by the Apex Court which has come after the Judgment of the High Court of Rajasthan.

6. In view of the above, this Court is not inclined to entertain the present Writ Petition only on the ground of jurisdiction.
7. It is open for the Petitioner to approach the jurisdictional High Court as observed by the Apex Court in Siddhartha S Mookerjee (supra).
8. The Writ Petition is disposed of along with the pending applications, if any.
9. It is made clear that this Court has not made any observations on the merits of the case.

SUBRAMONIUM PRASAD, J

MAY 24, 2024

Rahul