29.01.2025
Item No.9
gd/ssd

CO/4090/2024
KISORI SHAW ALIAS KISHORI SHAW
VS
UNITED INDIA INSURANCE COMPANY LIMITED
AND ORS.

Mr. Ayan Kumar Boral
..for the petitioner.

The petitioner has challenged the order dated September 2, 2024 passed by the National Consumer Disputes Redressal Commission in First Appeal No. 200 of 2020.

The petitioner who claims to be engaged in selling grocery and stationery goods for earning his livelihood obtained an insurance policy for covering the risk of stock of grocery and stationery items lying in the shop. The policy was valid for the period from 19.10.2012 to 18.10.2013. During the subsistence of the insurance policy, in the night of 30.05.2013 to 31.05.2013 at about 1.15 hours, a fire took place inside the insured shop and the items stored in the shop were damaged. The petitioner submitted a claim of Rs.50,00,000/-with the insurance company.

The insurance company appointed a Surveyor who submitted a survey report dated 19th November, 2013 stating that they are unable to assess the loss.

The insurance company by an order dated 21st May, 2014 repudiated the claim of the petitioner.

Being aggrieved by the rejection of the claim of the petitioner by the insurance company, the petitioner filed a complaint before the State Commission.

The State Commission by its order dated 31st December, 2019 dismissed the complaint.

The petitioner preferred a first appeal before the National Consumer Disputes Redressal Commission, New Delhi challenging the said order in First Appeal No.200 of 2020.

The learned advocate appearing for the petitioner submits that the written version of the petitioner and the evidences on record were not considered by the National Commission and, therefore, the said order suffers from perversity.

The National Commission examined the materials on record and also took note of the observations contained in the report of the Surveyor dated 19th November, 2013 wherein it was stated that documents submitted do not reflect the actual stock position. The National Commission also noted that the accounts of the petitioner were being audited by a Chartered Accountant who had been struck off the list of the Institute of Chartered Accountants of India and the monthly stock statements relied on were not verified by the Bank. The Investigator who was appointed pointed out that the vendor's bills and tax invoices submitted by the insured/petitioner herein are false and fabricated. It has been further noted by the National Commission that the findings recorded by the State Commission could not be rebutted or controverted by the insured/petitioner herein before the National Commission. The National Commission also recorded that in the absence of any credible evidence in support of the claim the Surveyor's report cannot be said to be perverse or arbitrary.

Such concurrent factual finding by the National Commission and the State Commission cannot be interfered with by this Court under Article 227 of the Constitution of India as the petitioner could not satisfy this Court that the said orders suffer from any perversity and there is no jurisdictional error.

That apart, in view of existence of alternative and efficacious appellate remedy provided under the statute, this Court is not inclined to grant any relief to the petitioner in this application.

Accordingly, CO 4090 of 2024 stands dismissed.

There will be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(HIRANMAY BHATTACHARYYA, J.)