05.03.2026
Item No.10
Court No.12
CP

MAT No.1709 of 2025
with
CAN 1 of 2025

Rajoshree Saha
Vs.
Indian Bank & Anr.

Mr. Nemani Srinivas
Mr. Swagata Biswas
....for the appellant.

This appeal arises out of an order dated September 16, 2025, passed in WPA 14364 of 2025. The writ petition was dismissed on the ground that disputed question of fact could not be gone into in the writ proceeding.

The writ petition was filed assailing the refusal on the part of the respondents to honour the insurance coverage of a loan obtained by the appellant/petitioner and her husband. The loan was secured with the Kotak Mahindra Life Insurance Company Limited, respondent no. 2 herein, being an agent of the Indian Bank.

The appeallant and her husband were the borrowers and the Indian Bank was the lender. The insurance covered the loan amount. The terms and conditions of the said insurance was that, if one of the insured expired, the insurer would pay up the remaining loan amount to the lender. Accordingly, upon death of the appellant's husband, the appellant made a claim with the respondent no. 2. The respondent no. 2 repudiated such claim on the ground that the death certificate was questionable. The death certificate which was issued by a doctor on the letter head of 'Royal Nursing Home & Diagnostic Centre' was not accepted by the said nursing home. This conclusion of the respondent no. 2 was pursuant to an investigation done by them with regard to the circumstances leading to the death of the appellant's husband and an enquiry with regard to the death certificate.

The appellant exhausted the remedies under the said insurance policy at its various levels and, ultimately filed the writ petition challenging the decision of the insurance company. The learned Single Judge dismissed the writ petition, inter alia, holding that whether there was material suppression by the writ petitioner/appellant at to the illness of her husband or whether the death certificate was authentic, involved adjudication of disputed questions which could not be decided by the writ court. Her Ladyship granted liberty to the appellant/writ petitioner to approach the appropriate forum, in accordance with law.

Under such circumstances, we do not find any reason to interfere with the order impugned. The order does not suffer from any illegality.

The insurance company, upon making its own investigation, came to the specific finding that the death certificate issued by a particular doctor under the letter head of the Royal Nursing Home & Diagnostic Centre' was not a valid document. The nursing home had informed the company that the same had not been issued. The appellant submits that the doctor who issued the death certificate in the residence of the appellant, was a visiting doctor of the nursing home.

The onus is upon the appellant/petitioner to prove that the death certificate which was issued by the doctor, was genuine and the same was issued upon observing the required formalities and legal compliances.

Moreover, the appellant will also have to prove that the nursing home had erroneously disowned its own doctor, who had issued the certificate. These are all disputed questions which cannot be decided as it will involve evidence to be recorded. The appellant/writ petitioner was granted liberty by Her Ladyship to approach the appropriate forum, in accordance with law.

Under such circumstances, the appeal stands dismissed. However, such dismissal of the appeal will not prevent the appellant/writ petitioner from approaching the appropriate forum, in accordance with law, if so advised.

With disposal of the appeal, connected application being CAN 1 of 2025 is accordingly disposed of.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Uday Kumar, J.)