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(2024) 11 KL CK 0035

In the High Court Of Kerala

Case No : Writ Petition (C) No. 41793 Of 2024

Sithara M — APPELLANT

Vs

Insurance Ombudsman — RESPONDENT

Date of Decision : 26-11-2024

Acts Referred:

Citation : (2024) 11 KL CK 0035

Hon'ble Judges : D. K. Singh, J

Bench : Single Bench

Advocate : M.R.Venugopal, Dhanya P.Ashokan, S. Muhammad Alikhan, Anjana S. Raj, Danya P. Asokan, Bepin Vijayan

Final Decision : Disposed Of

Judgement

D. K. Singh, J

1. The petitioner's late husband availed a home loan of Rs.29 lakhs from the PNB Housing Finance Limited, the 3rd respondent, in the year 2021. The said loan liability was to be discharged in 84 equated monthly instalments. The loan was secured with an equitable mortgage of 14.65 cents of property in Re. Sy. Nos.126/4B and 125/90 in Ward No.17, Puthoor Besom, Perumanna Village, Kozhikode.

2. At the time of availing the loan, the late husband of the petitioner had taken insurance coverage for the said home loan from Bharti AXA Life Insurance Company Limited, the 2nd respondent.

Unfortunately, on 05.11.2023 the petitioner's husband suffered cardiac arrest and passed away. The petitioner, being the nominee of the insurance claim, approached the Insurance Company for disbursing the insured sum. However, the 2nd respondent, the Insurance Company, repudiated the claim of the petitioner vide communication dated 25.04.2024. Aggrieved by the decision of the Insurance Company to repudiate the claim, the petitioner approached the Insurance Ombudsman, the 1st respondent by Ext.P8.

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2.1 In the meantime, as the Bank did not receive the instalments, it classified the petitioner's loan account as NPA and proceeded to take physical possession of the secured asset; in fact, symbolic possession has already been taken.

3. Ms Dhanya P Asokan, learned Senior Counsel for the petitioner, submits that the Ombudsman may be directed to expeditiously take a final decision on the complaint submitted in Ext.P8. And till the Ombudsman takes a decision, the Bank should not take further coercive measures.

4. Learned Counsel for the 4th respondent submits that the loan has been taken over by the Bank of Baroda. He submits that the Bank is proceedings under the provisions of the SARFAESI Act and the Rules made thereunder to realize its outstanding dues as the petitioner failed to discharge the liability in terms of the loan agreement. He further submits that the 4th respondent has no role to play in finalizing the insurance claim. Therefore, the Bank is proceeding strictly in accordance with the law.

5. I have considered the submissions advanced on behalf of the learned Senior Counsel for the petitioner and learned Counsel for the 4th respondent.

6. The husband of the petitioner died. It is not in dispute that the loan availed by the late husband from the 3rd respondent was insured by Bharti AXA Life Insurance Company Limited which has repudiated the claim. Against the repudiation of the claim, a complaint is pending before the Insurance Ombudsman, the 1st respondent. If the Bank is allowed to proceed further during the finalization of the insurance claim pending before the Ombudsman, it would seriously prejudice the petitioner.

6.1 In view thereof, the present writ petition is disposed of with directions to the 1st respondent to finalize the complaint of the petitioner in ExtP8 expeditiously, preferably within two months. Till the Ombudsman takes a final decision on the complaint in Ext.P8, the 4th respondent is directed not to take further coercive measures against the petitioner.

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