
(2011) 04 MAD CK 0489

In the Madras High Court

Case No : Writ Petition No. 6502 of 2006

The Perambalur District Consumer Co-operative Wholesale
Stores Ltd.

APPELLANT

Vs

The National Insurance Company Ltd.

RESPONDENT

Date of Decision : 12-04-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 04 MAD CK 0489

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : N. Manokaran, for the Appellant; K.S. Narasimhan, for the Respondent

Judgement

M. Jaichandren, J.—This writ petition has been filed against the Respondent relating to the alleged liability arising out of the insurance contract, which had been entered into with the Respondent, by way of an insurance policy, dated 24.08.2004.

2. Heard the learned Counsel appearing on behalf of the Petitioner and the learned Counsel appearing on behalf of the Respondent.

3. The learned Counsel appearing on behalf of the Respondent had submitted that the insurance claim made by the Petitioner does not fall within the insurance policy in question. He had also submitted that there are certain other factual issues to be gone into, before a decision is taken, in respect of the claim made by the Petitioner. Therefore, the writ petition filed by the Petitioner before this Court, by invoking Article 226 of the Constitution of India, is not maintainable.

4. In view of the averments made in the affidavit filed in support of the writ petition and in view of the submissions made by the learned Counsels appearing on behalf of the parties concerned, this Court is of the considered view that the Petitioner has not shown sufficient cause or reason to grant the relief"s, as

prayed for, by the Petitioner in the present writ petition. Since, the matter arises out of a contractual liability, which had been entered into between the Petitioner and the Respondent company and as certain factual issues are to be gone into, the present writ petition is not maintainable before this Court, under Article 226 of the Constitution of India. Hence, the writ petition stands dismissed. No cost. However, in view of the earlier order passed by this Court, on 28.03.2002, in W.P. No. 16822 of 2001 (N. Subbanan v. United India Insurance Company Limited, represented by its Chairman cum Managing Director, 24, Whites Road, Chennai 600 014 and Anr.) which had been confirmed by an order of the Division Bench of this Court, dated 30.07.2002, made in W.A. No. 2004 of 2002, wherein, it has been stated that the time taken by the Petitioner in pursuing the matter before this Court, in the present writ petition, shall be excluded for calculating the period of limitation. It is also open to the Petitioner to approach the appropriate civil forum or the consumer forum for the redressed of his grievance. It is for the forum concerned to consider the pendency of the writ petition, while dealing with the aspect of delay in approaching the said forum.

5. The Registry is directed to return the original impugned order, dated 02.05.2005, to the learned Counsel appearing on behalf of the Petitioner.