(2012) 07 NCDRC CK 0034

In the National Consumer Disputes Redressal Commission

UNITED INDIA INSURANCE CO. LTD. — APPELLANT

Vs

B.S. Shivaprasad — RESPONDENT

Date of Decision : 18-07-2012

Acts Referred:

Citation : 2012 0 NCDRC 865

Hon'ble Judges : J.M.MALIK , VINAY KUMAR J.

Final Decision : Revision Petition dismissed

Judgement

1. RESPONDENT Nos.1 & 2, B.S. Shivaprasad and Smt. P.S. Shobha Prasad, borrowed Rs.5,00,000/- from the Bank of Baroda, respondent No.3, for improvement of their house. Respondent No.3 insured the said house for the benefit of the complainants for Rs.5,00,000/- under ''UNI Home Care Policy '' which was in force from 29.03.2004 to 28.03.2014, with United India Insurance Co. Ltd, the petitioner in this case. Respondent No.3, was to cover the risk with any damages caused to the said property or the perils, mentioned therein. In the meantime, the State Highway authorities and PWD authorities, with an intention to widen the road margin, for public purpose, demolished a major portion of the house, in spite of their protest. Consequently, the respondent Nos. 1 & 2 suffered a loss to the tune of Rs.12,00,000/-. The District Forum dismissed their complaint. The State Commission accepted their appeal and directed the Bank of Baroda to settle the claim with respect to the policy obtained by the complainants to an extent of Rs.5,00,000/- and to pay the same, together with interest @ 10% p.a. from the date of filing of the complaint, till realization and also pay litigation cost in the sum of Rs.2,000/-. The revision petition was preferred by the United India Insurance.

2. WE have heard the learned counsel for the petitioner. He submitted that petitioner has no liability to pay the said amount. This is not a coherent argument. It is clear that the petitioner has been correctly saddled with the above said liability. The State Commission has quoted the terms and conditions, which are reproduced, as under:- "9. When we go through the said policy terms

and conditions, it makes abundantly clear that:- "Permanent or temporary dispossession resulting from confiscation, commandeering, requisition or destruction by order of the Government or any lawfully constituted Authority ". So also, Clause (ix) reads as follows :- If in any case the company shall be unable to reinstate or repair the property hereby insured, because of any municipal or other regulations in force affecting the alignment of streets or the construction of buildings or otherwise, the company shall, in every such case, only be liable to pay such sum as would be requisite to reinstate or repair such property if the same could lawfully be reinstated to its former condition ".

3. THUS , the case of the petitioner goes in a tizzy. The facts are stubborn things. It is not possible to wriggle out of the written agreement. In case, the argument of the petitioner ''s counsel is accepted, the very purpose of policy shall stand defeated. The case of the respondent Nos. 1 and 2 corresponds to the above said clauses, on all fours. Revision petition is lame of strength and deserves to be dismissed. There is delay of 43 days in preferring this revision petition, as reported by the Registry. It is stated that due to communication gap between the branch office and the regional office, the said delay had occurred. This is not a sufficient ground. It is, therefore, barred by time, as well. The revision petition is, therefore, dismissed, both on the ground of delay as well as on merits. Revision Petition dismissed.