

Abdulla @ Ottur Ravindranathan vs the Manager

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Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr. Justice T.R.Ravi

Appeal No. : WP(C)/8360/2022

Appellant : Abdulla @ Ottur Ravindranathan

Respondent : The Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE T.R.RAVI WEDNESDAY, THE 31ST DAY OF JULY 2024 / 8TH SRAVANA, 1946 WP(C) NO. 8360 OF 2022 PETITIONER: ABDULLA @ OTTUR RAVINDRANATHAN AGED 70 YEARS S/O.SANKARAN NAIR, ASARIKANDIL HOUSE, OTTAKKANDAM, ARIKULAM, KOZHIKODE DISTRICT, PIN - 673 620. BY ADV SRI C.K.RAMAKRISHNAN RESPONDENTS: 1 THE MANAGER HDFC (STANDARD LIFE INSURANCE COMPANY LTD.), SINAX TOWER, KANNUR ROAD, NADAKKAVU, KOZHIKODE DISTRICT, PIN - 673 011. ADDL.R2 & R3 IMPLEADED ADDL.R2 BANKING OMBUDSMAN, RESERVE BANK OF INDIA, BAKERY JUNCTION, TRIVANDRUM-695033 ADDL.R3 THE GENERAL

MANAGER,

CONSUMER AFFAIRS DEPARTMENT, GRIEVANCE REDRESSAL CELL, INSURANCE REGULATORY AND DEVELOPMENT OF INDIA (IRDAI), SURVEY NO.115/1, FINANCIAL DISTRICT, NANAKRANGUDA, GACHIBOWLI, HYDERABAD-500032. [ADDL.R2 AND R3 ARE IMPEADED AS PER ORDER DATED ADDL.R4 IMPEADED ADDL.R4 INSURANCE OMBUDSMAN, OFFICE OF THE INSURANCE OMBUDSMAN, 2ND FLOOR, PULINATTU BUILDING, OPPOSITE COCHIN SHIPYARD M.G.ROAD, ERNAKULAM - 682 015 [ADDL.R4 IS IMPEADED AS PER ORDER DATED BY ADVS. SRI JITHIN SAJI ISAAC SRI N.KRISHNA PRASAD SRI BHARATH MOHAN SRI K.J.SAJI ISAAC(S-82) MS. ELIZABETH VARKEY(E-25) SRI AJEESH EMMANUEL(K/109/2012) SRI SHAMSUDEEN O.K.(K/000687/2017) THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07.06.2024, THE COURT ON 31.07.2024 DELIVERED THE FOLLOWING:

T.R. RAVI, J.

----- W.P.(C)No.8360 of 2022
----- Dated this the 31st day of July, 2024

JUDGMENT

The petitioner had taken an insurance policy from the first respondent and paid a sum of 1,00,000/- towards the first instalment of premium. This was done on 25.10.2008. He did not pay any further premiums. The policy was of 15 years duration. The writ petition was filed 14 years later seeking a refund of the amount given as premium. Pending the writ petition, the petitioner wrongly approached the Banking Ombudsman for remedy. The Banking Ombudsman and the General Manager, Consumer Affairs Department, of the Grievance Cell of IRDAI were made additional respondents 2 and 3 in the writ petition. The second respondent replied stating that the first respondent does not come within the purview of the

second respondent. Thereafter, the Insurance Ombudsman was impleaded as the additional fourth respondent. The petitioner submitted a complaint before the additional 4th respondent and the same has been rejected as per Ext.P8, stating that the petitioner has to represent his case first to the insurer, and it is only if he is not satisfied with the decision of the insurer that he can approach the Ombudsman. Exhibit P8 is dated 7.10.2022. The petitioner appears to have approached the additional 4th respondent again, by submitting Exts.P9 and P10 representations, but the same have not been considered so far on merits. The petitioner hence seeks relief under Article 226 of the Constitution of India.

2. The first respondent has filed a counter affidavit stating

that the petitioner is not entitled to any relief since the policy which he had taken in 2008, has lapsed due to non-payment of instalments of premium. It is stated that if there is a default in the payment of the 2nd instalment, then the entire amount paid will get forfeited, and no amount will be payable under the surrender policy after one year. I do not propose to go into the merits of the contentions of the parties since the Insurance Ombudsman has not considered the issue on merits and has rejected the claim, stating that the petitioner has to first approach the insurer. The Insurance Ombudsman has not considered the fact that the petitioner had already approached the Insurer and the Insurer had rejected the request. In the circumstances, it is only appropriate that the Insurance Ombudsman considers the issue on merits and passes an order in accordance with the law.

3. The writ petition is hence disposed of directing the

additional 4th respondent to consider Exts.P9 and P10 applications submitted by the petitioner and take a decision on merits, after hearing the petitioner and the 1st respondent, at the earliest, at any rate within four months from the date of receipt of a certified copy of this judgment. The petitioner shall be permitted to make additional written submissions, before the additional 4th respondent, and the same shall also be accepted and considered by the additional 4th respondent in accordance with the law. Sd/- T.R.RAVI JUDGE dsn APPENDIX OF WP(C) 8360/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE STATEMENT SHOWING THE UNIT LINKED PENSION SCHEME UNDER LIFE

INSURANCE COMPANY. Exhibit P2 TRUE COPY OF THE STATEMENT SHOWING THE PAYMENT DATED 25/10/2008. Exhibit P3 TRUE COPY OF THE LETTER DATED THE PETITIONER. Exhibit P4 TRUE COPY OF THE COMPLAINT FILED BEFORE THE OMBUDSMAN BY THE PETITIONER DATED

Exhibit P5

TRUE COPY OF THE LETTER FORWARDED BY

ISSUED BY HDFC RESPONDENT EXHIBITS EXHIBIT R 3 (a) A True copy of complaint dated 27.10.2022 Exhibit R1(a) True copy of the letter dated 19.05.2022 submitted by the petitioner to the Insurance Regulatory and Development Authority of India

Exhibit R1(b) True copy of the reply dated 18.07.2022 sent by the 1st respondent to the petitioner Exhibit R1(c) True copy of the policy dated 17.11.2008 issued to the petitioner by the 1st respondent PETITIONER EXHIBITS Exhibit P7 TRUE COPY OF THE LETTER DATED OFFICER ,HDFC LIFE BY THE PETITIONER Exhibit P8 TRUE COPY OF THE LETTER NO.KOC-L-019- 2223-0311 DATED 7/10/2022 BY THE OFFICE OF THE INSURANCE OMBUDSMAN ,KOCHI TO THE PETITIONER. Exhibit P9 TRUE COPY OF THE REPRESENTATION DATED Exhibit P10 TRUE COPY OF THE REPRESENTATION DATED

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