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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Decision: 15th July, 2025*
+ CM(M) 1791/2023 & CM APPL. 56785/2023
UNIVERSAL SOMPO GENERAL INSURANCE CO LTD

.....Petitioner
Through: Mr. D Varadarajan with Mr. Rajat
Khattry, Advocates.

versus

SURESH CHAND JAIN & ANR.

.....Respondent
Through: Mr. O P Gupta with Mr. Sanjeev,
Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. Mr. Suresh Chand Jain (respondent No.1 herein) filed a complaint under Section 17 of *Consumer Protection Act, 1986* against M/s Universal Sompo General Insurance Co Ltd (petitioner herein) and Allahabad Bank (now known as Indian Bank).
2. Such complaint, filed before learned *Delhi State Consumer Disputes Redressal Commission* (in short "State Commission"), was allowed *vide* order dated 18.03.2016 and when insurance company filed an appeal before the learned *National Consumer Disputes Redressal Commission* (in short "NCDRC"), such appeal has also been dismissed on 16.01.2023.
3. Such order is under challenge by filing present petition under Article



227 of Constitution of India.

4. It, however, needs to be highlighted that, initially, the petitioner herein had filed a *Special Leave Petition* (SLP) before the Hon'ble Supreme Court which was registered as SLP (Civil) No. 5263/2023 and the abovesaid petition was disposed of without going into the merits of the case and the petitioner was directed to first approach the jurisdictional High Court. In terms of such directions contained in judgment dated 26.07.2023 passed by the Hon'ble Supreme Court of India, the present petition has been filed.

5. Heard arguments from both the sides.

6. For the sake of convenience, the parties would be referred as per their nomenclature before the learned State Commission and, therefore, petitioner as Opposite Party No.1/ Insurance Company, respondent No.1/ Suresh Chand Jain as Complainant and respondent No.2 as Opposite Party No.2/Bank.

7. In brief, the case of the complaint is that, it had taken two different policies for the period 25.11.2011 to 24.11.2012.

8. One policy was covering the risk of burglary and the other was covering the risk related to fire.

9. As per the policies, the risk location was 2049-A, *Street No. 1, Rajgarh Extension, Gandhi Nagar, Delhi -110031* and 1897/27, *G.F., Hari Ram Electrical Market, Bhagirath Palace, Chandni Chowk, Delhi-110031*.

10. The sum insured, with respect to the burglary policy was Rs.



50,00,000/- whereas with respect to fire policy, the sum insured was Rs. 4,00,000/-.

11. According to complainant, a burglary took place at his premises situated in Bawana on 29.06.2012 for which he got registered FIR with the concerned Police Station and, thereafter, a fire incident also took place at his premises on 18.10.2012.

12. For the abovesaid two separate incidents, complainant lodged his claim(s) with the insurance company.

13. A Surveyor was appointed, who even conducted the survey.

14. However, since according to complainant these claims were not processed and the delay was causing substantial loss to him, he was compelled to file complaint before the learned State Commission.

15. As already noticed above, the learned State Commission has allowed the complaint and has accordingly directed the insurance company to pay a sum of Rs. 41,31,180/- in relation to claim under burglary policy with interest @ 12% per annum w.e.f. 01.06.2013. Simultaneously, there is a direction to the Opposite Parties to pay Rs. 2,00,000/- to complainant towards compensation for mental agony, harassment and for deficiency in providing services. As regards claim with respect to the fire policy, Opposite Party No. 1 (insurance company) has been directed to process and finalise the fire claim of Rs. 4,00,000/- within 30 days from the receipt of necessary documents, as demanded from the complainant.

16. As noted already, the Insurance Company and the concerned Bank



were Opposite Parties before the learned State Commission and said order of payment has been passed, jointly, against both the Opposite Parties.

17. Feeling aggrieved, the abovesaid order was assailed by Insurance Company only and their such appeal (First Appeal No. 376/2016) has been dismissed.

18. Interestingly, as informed, Opposite Party No.2 i.e. Bank did not challenge said order passed by learned State Commission.

19. The prime most contention coming from the side of the Insurance Company is to the effect that the policies in question were “specific to two locations only” and, without any due intimation to them, the stock was transferred to a third location i.e. DSIDC, Bawana where the alleged burglary and fire took place. It is argued that in terms of the specific terms of the policies, since the location had been changed unilaterally, the claims were liable to be rejected, outrightly.

20. This Court has already noticed the two locations for which the policies had been given and, it is also an admitted fact that the burglary and fire had taken place at a third place i.e. at DSIDC, Bawana.

21. Though, on first blush, the contention of the petitioner looks very attractive that if any insured person dares to change the location, it would do the same at its own risk and peril and cannot be permitted to raise grievance for rejection of its claim, but on deeper evaluation, such contention is found to be specious.

22. The reason is not far to seek.



23. As noticed already, before the learned State Commission, the Insurance Company as well as the Bank were Opposite Parties and their versions were also taken on record.

24. According to the specific case of the complainant, when he approached Allahabad Bank for loan, in terms of conditions of loan, he was asked to take a policy of burglary as well as of fire. According to complainant, the policy was arranged by said Bank only and they had never approached any Insurance Company, with any request or proposal for grant of any such policy.

25. The Bank in question acted as an *intermediary* and arranged the abovesaid two policies and since the complainant had been able to construct its premises in Bawana Industrial Area, he transferred his entire stock to Bawana and also gave a specific intimation in writing to the Bank on 28.03.2012, when said two policies were valid and subsisting.

26. The Bank also duly acknowledged the abovesaid letter and the Bank, even, intimated about the abovesaid “change in location” to the Insurance Company by writing a letter to them on 31.03.2012.

27. This Court has gone through the orders passed by learned *fora below* and both the *fora* have come to a specific finding of fact.

28. There is no dispute about the issuance of the policies and the learned Commission also went on to hold that the Insurance Company and the Bank in question were rather acting in joint-venture and since the change of location had been duly communicated to the Bank, it had to be presumed to



be due intimation to the insurance company as well. The relevant observation as recorded in the impugned order is as under:-

“11. The case of the complainant is that premises at Bawana had been mortgaged with the Bank at the time when the loan had been taken and that insurance policies had been obtained in order to insure the property as well as the stock and that the premium had been paid by the Bank at the time when the policy was taken and debited from his account. The State Commission after perusing the relevant record has also reached to the conclusion that the Bank and the Insurance Company was having a joint venture. The State Commission has held as under:

"It has also been proved on record that OP No.1/Insurance Company is a joint venture of OP No.2 and the insurance policies had been taken by OP No.2 bank to safeguard its loan amount which is not denied by OP in their reply therefore, OP No.2 bank had been rightly and correctly impleaded as partly in the present complaint and the OP No.2 is a necessary party. We are also of the opinion that OP No.1 for the first time has filed before this commission the assessment of the loss towards fire and we hold that both the OPs have committed deficiency in service by not assessing the loss caused to the complaint towards burglary and fire as a result of which the complainant failed to liquidate his loan amount of OP No.2 bank and his business has been completely ruined and his property has been taken by the bank charging compound interest@ 16% with penalty.

In its Affidavit-in-Evidence, the OP No.2/Bank has stated that on 17/8/2010, the complainant had taken a Term Loan of Rs30,00,000/- and OD Limit of Rs.35,00,000/- aggregating at Rs.65 lacs by furnishing D.P. Note for Rs.65 lacs in favour of the bank and mortgaging the subjected property situated at Plot No.276, Pocket-C, Udyog Vihar, Bawana Industrial Area, Delhi by virtue of registered lease deed as document No.5662 dated 15/5/2007 as collateral security. It has been further stated that as on 31/5/13, a sum of Rs.60,75,077/- is outstanding as recoverable from the complainant along with further interest. In nutshell submission of the Bank are that it is legally entitled to



recover its loan amount alongwith interest from the complainant. There is no denial by the bank that the OP No.1/Insurance Company is not its joint venture and at times the Managing Directors of both the OPs were not the same person as specifically highlighted by the complainant. There is also no denial by the bank that it had not forwarded the letter dated 28/3/12 received from the complainant to the OP No1/Insurance Company.

Clause 6 of the Term Loan Agreement dated 17/10/10 executed between the complainant and the OP No.2/Bank clearly lays down the basis and background which creates an obligation on the complainant to ensure that the goods in question are duly covered by the insurance policies. Clause 6 further provides that in case of any failure on the part of the complainant to comply with the requirement of insurance covers, the OP No.2/Bank shall be entitled to complete the said procedure and recover the cost of the said procedure from the complainant. It is, therefore, clear that the entire arrangement of having insurance cover for the goods in question arose on account of loan agreement/arrangement between OP No.2 and the complainant and the records show that admittedly the property situated at 276, Pocket-C, Sector-2, Bawana Industrial Area, Delhi was mortgaged to the OP No.2/Bank and OP-2 Bank had paid the entire premium of both the insurance covers/policies by debiting the account of the complainant."

12. It also stands proved and not denied by the Bank and rather admitted by the Bank that the complainant had written a letter date 28.03.2012 to them informing them that they had shifted the stock at their Bawana address which was mortgaged with the Bank. It is also apparent that Bank had written a letter dated 31.03.2012 to the insurance company which the insurance company has however, denied. In view of the proved facts that the entire arrangement between the Bank and the Insurance Company was a joint venture and it was the Bank who purchased the insurance policy for the complainant after paying the premium and debiting from the account of the complainant with the Bank, it is sufficient that once the complainant had informed the Bank about the change of address and shifting of stock, it had complied with the terms and conditions of the insurance policy and burden was, therefore, upon the Bank and the



Insurance Company to do the necessary endorsement in the policy. It is also clear from the evidences that the Insurance Company had failed to prove on record that it had sent the policies to the complainant along with all the terms and conditions. The present case is, therefore, distinguishable from the case laws relied upon by the Appellant. In none of the cases, there was a contention that entire arrangement was a joint venture between the Bank and the Insurance Company and, therefore, findings of those cases are not relevant on the facts and circumstances of this case. The State Commission has also observed that terms and conditions of the policy were never conveyed to the complainant and that insurance policy had never been sent to the complainant. It has held as under:-

"After issuing the aforesaid insurance policy schedules, the insurance policies have been claimed to have been dispatched by the OP No.1 to the complainant on 16/12/11 but no such courier receipt showing dispatch or acknowledgment of the complainant was placed on record by the OP No.1 along with the Written Statement. However, Original Courier Receipt bearing No.0212520239 dated 16/12/11 has been placed on record by the OP No.1 along with its Evidence Affidavit which marked as Exh. RW-1/2. A bare perusal of the said receipt shows that it nowhere contains the acknowledgment of the complainant or anybody on his behalf. Therefore, we have no hesitation in holding that filing of the said courier receipt by the OP No.1/Insurance Company is nothing but an attempt to fill the lacunae of non-dispatch of insurance policies to the complainant and thus the OP No.1 has been deficient in rendering services to the complainant and accordingly is not entitled to take any advantage of any of the clauses of the said polices."

13. Regarding joint venture between the Bank and the Insurance Company, the State Commission has observed as under:

"From a bare perusal of the Insurance Policy Schedules filed by the complainant at page 11-14 of the complaint, it is evident that the OP No.1/Universal Sompo General Insurance Co. Ltd is a joint venture between Allahabad Bank, Indian Overseas Bank, Karnataka Bank and Dabur Investments. It is further evident from these Schedules that the name of the OP No.2 viz Allahabad Bank has been shown as Intermediary Name and hypothecation has also



been mentioned in favour of the OP No.2/Bank. Thus, we find force in the contention of the complainant that both the Opposite parties viz Insurance Company and the Bank were engaged in joint venture business and the subjected policies were arranged by the Bank as a part of entire arrangement to cover the risks from certain perils and during the entire period the OP No.2/ Allahabad Bank was the de-jure owner of the stocks in question for the reason that the entire stocks were admittedly hypothecated to the bank and from the documents placed on record, it is clear that the entire arrangement was mutually entered into between the parties for protecting the interests of OP No.2/Bank as well.

14. *The State Commission on service of the letter of the complainant dated 28.03.2012 regarding change of address has observed as under:-*

"The complainant has claimed that vide letter dated 28/3/12, he had informed the OP No.2/Allahabad Bank about completion of construction and transfer of stocks to 276, Pocket-C, Sector-2, Bawana Industrial Area, Delhi. Copy of the said letter has been placed at page 15 of the complaint which, inter-alia, after giving necessary particulars about Loan Account No. & stocks transferred etc, clearly states as under:-

'This best of our knowledge & kindly do update our record in your books as per this information, and kindly send the copy of the same information to whom it ever be concerned insurance company, of our above said premises by you.'

This very fact has not been disputed by the OPs and therefore is deemed to be admitted. Therefore, from a combined reading of Insurance Policy Schedules filed by OP-1 and the Letter dated 28/3/12 written by the complainant to the bank, a logical inference that can be drawn is that as the Insurance Company and the Bank are the joint ventures, the complainant found it sufficient to intimate the Bank alone about shifting of stock at Bawana with the request to further inform the insurance company and there was no reason for the complainant to even presume any failure on the part of the bank for not complying with the instructions of the complainant. On receiving the letter dated 28/3/12 written by the



complainant to the bank, a logical inference in fact, the OP No.2/Bank has issued a letter bearing No. LJP/Adv/Jaichand/163 dated 31/3/12 to the OP No.1/Insurance Company under the heading 'Addition of premises for stocks' and forwarded a copy of letter dated 28/3/12 received from the complainant. This very fact of forwarding the letter dated 31/3/12 along with copy of letter dated 28/3/12 to the OP No.1 has not been denied by the OP No.2/Bank. However, OP No.1 has denied to have received the said letter from OP No.2. There is nothing on record to indicate that the said letter was not sent by the OP No.2 to the OP No.1 as per request made by the complainant and in all probabilities, it can safely be presumed that the addition of Bawana premises as well as shifting of stock there was well within the knowledge of both the OPs and despite of specific knowledge the OP No.1/Insurance Company did not care to protect the interests of the OP No.2/Bank being the de-jure owner of the goods and a joint venture of OP No.1 as well as the interest of the complainant.

The presumption of having knowledge about the addition of new premises by the OP No.1/Insurance Company is drawn in favour of the complainant and further finds support from the fact that it had appointed its surveyor to inspect and survey the new premises which was done by the surveyor. Moreover, the claim of the complainant of informing about the newly added premises was not refuted by the OP No.1/Insurance Company even after 29/6/12 i.e. the first incidence of peril till the second date of peril/fire. Even otherwise, if the version of the OP No.1/Insurance Company is to be believed that it had not received the letter dated 31/3/12 sent by the OP No.2/Bank, the bank has to be held to be deficient in rendering due services to the complainant and being the joint venture of OP No.1, both the OPs are jointly or severally liable to compensate the loss suffered by the complainant. The Counsel for the OP No.1/Insurance Company has relied upon some decisions of the Hon'ble National Commission. We have considered the same. Suffice it to say that these cases are distinguishable on facts inasmuch as in none of these cases the Insurance Company and the Bank were the joint



venture of each other having common management whereas in the present case the OP No.1/Insurance Company is the joint venture of the OP No.1/ Allahabad Bank."

29. Learned counsel for Insurance Company submits that the Bank in question was, merely, its shareholder and there was no direct relation or *nexus* between the two and, therefore, intimation to one could not have been presumed as intimation to the other. He also submits that if one applies the principle of *Corporate Independence*, the Bank and Insurance Company would be two separate entities.

30. Be that as it may, fact remains that it is quite apparent from the material placed on record that the complainant herein never ever directly approached the Insurance Company for taking any policy. He had, merely, gone to the bank for taking loan and while granting such loan, he was asked by the bank to take such policies and it was the bank only which arranged the abovesaid two policies.

31. Though the Bank had acted as intermediary, it was instrumental and facilitator for arranging such policies. These were rather obtained by the bank of their own, *albeit*, for its borrower.

32. In such peculiar facts and circumstances of the case, the moment the location of the stock was changed and due communication was given to the concerned Bank with the request that it be also duly intimated to the Insurance Company, whatever was required to be done by the complainant had, actually speaking, been done by the complainant.



33. It has been, in no uncertain terms, recorded by learned NCDRC that even the Bank had written a letter on 31.03.2012 to the Insurance Company and that being so, Insurance Company should have, rather, made immediate and requisite correction in their record, with respect to the change in the location.

34. This becomes important because when during the course of the arguments, it was asked from learned counsel for the petitioner that whether after issuance of policy, if there is any change in the location and intimation to said effect is also sent to the insurance company directly, whether such change would be incorporated in the record or not, the answer came in affirmative as it was replied that it may happen, *albeit*, subject to insurability of new location and subject to certain conditions.

35. Evidently, for the reasons best known to Insurance Company, it denies receiving any such communication from Bank whereas Bank seems very clear on said aspect. Thus, the endeavour of the Opposite Parties is to merely frustrate the claim of complainant by indulging into a game of 'passing the buck'.

36. Learned counsel for petitioner also submits that the repudiation was not only on the ground of change in location, but there were other reasons also which have not been appreciated.

37. Fact, however, remains that such factual aspects seem to be within the domain of appreciation of evidence and while considering any petition under Article 227 of Constitution of India, it may neither be feasible nor appropriate for this Court to re-weigh and re-evaluate the entire evidence



and to come to any other opinion, particularly, when the view in question seems to be a plausible one.

38. Viewed thus, this Court does not find any reason to interfere with the impugned order. The petition is, accordingly, dismissed.

39. Before parting, this Court would, however, wish to clarify that the abovesaid order has been passed while keeping in mind the peculiar facts of the case. The change in the location was duly intimated to the concerned Bank and the concerned Bank also sent intimation in this regard to the Insurance Company but the location was not, somehow, recorded in their record and, therefore, the present order shall not be taken as a precedent.

40. It is noticed that the 50% of the awarded amount was earlier deposited by the petitioner herein with the learned Registrar General of this Court, which was permitted to be withdrawn, subject to furnishing of security. Such security has already been furnished by the complainant and in view of the fact that the present petition is being dismissed, such security stands discharged.

41. This Court may also supplement that there is a direction by learned NCDRC with respect to the processing of the claim on account of fire and when asked, learned counsel for the complainant submitted that all the relevant documents have already been supplied to the Insurance Company and they don't have further document which needs to be supplied to them.

42. In view of the above, this Court expects that in terms of the specific directions given by learned NCDRC, said claim for the loss on account of



fire shall be processed, without any further delay.

43. The petition stands disposed of in aforesaid terms.

44. Pending application also stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 15, 2025/sw/JS