



2026:AHC-LKO:19229

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 1002017 of 2010

Life Insurance Corporation Of India

.....Petitioner(s)

Versus

Special Judge Ayurved Ghotala Prakaran Lucknow

.....Respondent(s)

Counsel for Petitioner(s)	:	P.K. Khare, Raj Kumar Singh
Counsel for Respondent(s)	:	C.S.C., O.P. Agarwal

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Sri Raj Kumar Singh, learned counsel for the petitioner and Sri Divesh Mishra, learned Standing Counsel for the respondent -State.

2. Vide order dated 13.5.2024, it was directed that in case learned counsel for respondent No.3 is not present even on the next date, the Court will decide the matter on the basis of argument of learned counsel for the petitioner and learned Standing Counsel. In view of the above, the Court is proceeding to decide the case in absence of counsel for respondent No.3.

3. The petitioner is a corporate body created under provision of Life Insurance of India Act, 1956. The husband of respondent No.3 had a policy in his name. However, the policy repudiated on account of the fact that he has concealed certain material which he should have clearly indicated in its form that he was suffering from a disease on account of which no insurance could have been made by the petitioner.

4. Thereafter, the respondent No.3 filed Regular Suit No.363 of 1983 (Ram Janki Vs. LIC). In the said suit, it was prayed that a decree be made for the amount which was insured in the policy together with interest at the rate of 18%. The suit was dismissed vide judgment and order dated 10.3.1997. The respondent No.3 filed Civil Suit No.99 of 2001 through which she has challenged the validity of the judgment of the trial court. The appeal was ultimately heard by Additional District Judge, Lucknow. The appellate court vide judgment and order dated 18.9.2001, allowed the

appeal, setting aside the judgment of the trial court. Thereafter, the respondent No.3 filed an application for execution of the alleged decree before the trial court. The petitioner in opposition to the aforesaid execution filed an application under Section 47 Code of Civil Procedure. The execution was registered as Execution Case No.9 of 2002 and the objections made by the petitioner under Section 47 was registered as Miscellaneous Case No.10-C/2003. In opposition to the execution proceedings, attention was invited that there is no decree against the petitioners and the executing court has no power to *suo motu* determine the amount payable by the petitioners.

5. However, vide order dated 15.11.2008, the executing court rejected the objections. The petitioner being aggrieved against the aforesaid order, preferred a civil revision before the District Judge which was registered as Civil Revision No.61 of 2009. The District Judge transferred the revision before the respondent No.1. The revisional court by the impugned order dated 23.2.2010, rejected the revision.

6. Submission of learned counsel for the petitioner is that the respondent Nos.1 and 2 have not properly examined their jurisdiction, rather exceeded in its power, which is not conferred to them under the provision of Code of Civil Procedure and rejected the objection of the petitioner in wholly illegal manner. He submits that the appellate court has not prepared the decree in the matter, therefore, the executing court has no power to fix the amount payable to the respondent No.3.

7. On the other hand, learned Standing Counsel submits that the order passed by the respondent Nos.1 and 2 do not suffer from any infirmity or illegality and are just and valid orders. He submits that even in the case of non-preparation of decree, the executing court can examine the material on record and pass the impugned order.

8. After having heard the submissions advanced by learned counsel for the parties, I perused the material on record.

9. On perusal of the judgment passed by the appellate court dated 18.9.2001, it is apparent on the face of record that decree was not prepared, therefore, the executing court would have considered the

objection filed by the petitioner-Life Insurance Corporation of India and then the order would have been passed. The appellate court has committed manifest error of law in not preparing the decree in the matter and has proceeded to pass the order on 18.9.2001. The executing court has nowhere considered the objection of the petitioner that due to non preparation of decree, the amount could not be paid to the respondent No.3 and proceeded to pass the impugned order. The executing court vide order dated 15.11.2008, rejected the objection of the petitioner on wholly erroneous and misconceived grounds. The revisional court has also committed manifest error of law in proceeding to affirm the order passed by the executing court.

10. In view of the reasons recorded above, the writ petition succeeds and is **allowed**. The impugned orders dated 15.11.2008 and 23.2.2010 are hereby quashed.

11. The matter is remanded back to the Additional District Judge, Lucknow to appreciate the fact and to prepare a decree so that amount payable to the respondent No.3 may be paid.

(Irshad Ali,J.)

March 17, 2026
Gautam