



W.P.(MD)Nos.8905 and 8908 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.10.2023

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.(MD)No.8905 of 2021

&

W.M.P.(MD)Nos.6694 and 6696 of 2021

and

W.P.(MD)No.8908 of 2021

&

W.M.P.(MD)Nos.6699 and 6700 of 2021

Christina Catharine,
W/o Late.Varatharajan

.. Petitioner in W.P.(MD)No.8905/2021

Nivan Mathew,
S/o.Late. Varatharajan

.. Petitioner in W.P.(MD)No.8908/2021

Versus

- 1.The Union of India,
Rep. by its Secretary to Government,
Ministry of Finance, Jeevan Deep Building,
Parliament Street, New Delhi -1.
- 2.Reserve Bank of India,
Rep. by its Assistant General Manager,
Main Building, Post Box No.901,
Sahid Bhagatsingh Road, Mumbai - 400 001.
- 3.Reserve Bank of India,
Rep. by its General Manager,
No.16, Rajaji Salai, Chennai.



W.P.(MD)Nos.8905 and 8908 of 2021

WEB COPY

4. The Superintendent of Police,
Tirunelveli District, Tirunelveli.
5. The Inspector of Police,
Munnerpallam Police Station,
Tirunelveli District.
6. The Superintendent of Posts,
Head Post Office, Palayamkottai - 627 002,
Tirunelveli District.
7. The Post Master,
Konganthanparai Branch Post Office,
Tirunelveli - 627 007.
8. The Federal Bank Ltd.,
Rep. by its Managing Director,
Head Office at Federal Towers,
Market Road, Periyar Nagar,
Post Box No.103, Aluva, Kochi,
Eranakulam, Kerala State – 683 101.
9. The Federal Bank Ltd.,
Rep. by its Regional Manager,
Regional Head Office at 3rd Floor, Trinity Towers,
30, Conron Smith Road, Gopalapuram,
Royapet, Chennai.
10. The Federal Bank Ltd.,
Rep. by its Regional Manager,
Regional Head Office at No.21, Variety Hall Road,
Coimbatore.
11. The Federal Bank Ltd.,
Rep. by its Zonal Manager,
Zonal Office at Bhattad Tower, 1st Floor, 30, West Cott Road,
Royapet, Chennai – 14.



W.P.(MD)Nos.8905 and 8908 of 2021

12.The Federal Bank Ltd.,
Rep. by its Branch Manager,
No.18, Tiruchendur Road, Murugankurichi,
Palayamkottai, Tirunelveli,
Tirunelveli District.

13.Prasanna,
Branch Manager,
The Federal Bank Ltd.,
No.18, Tiruchendur Road, Murugankurichi,
Palayamkottai, Tirunelveli,
Tirunelveli District.

14.M.Sivanath .. Respondents in both the W.Ps.

Prayer in W.P.(MD)No.8905 of 2021:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to take all appropriate action against the respondents 8 to 14 for its unethical transaction of business in respect of appropriation of the petitioner's gold jewels pledged with the 12th respondent Bank under Gold Jewel loan Account Nos. 11396100106466, 11396300010864, 11396300010872 and 11396300011979, without following due process of law and illegally following unfair trade practices by violating the guidelines and fair practices codes of the respondents 2 and 3 herein and consequently, direct the 12th respondent to return all original Gold Loan Pledge Tokens to the petitioner as well as by extending the period of tenure of loan amount for one year.



W.P.(MD)Nos.8905 and 8908 of 2021

Prayer in W.P.(MD)No.8908 of 2021:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to take all appropriate action against the respondents 8 to 14 for its unethical transaction of business in respect of appropriation of the petitioner's gold jewels pledged with the 12th respondent Bank under Gold Jewel loan Account Nos. 11396100106417, 11396300010781, 11396300011052, 11396300011169 and 11396300014544, without following due process of law and illegally following unfair trade practices by violating the guidelines and fair practices codes of the respondents 2 and 3 herein and consequently, direct the 12th respondent to return all original Gold Loan Pledge Tokens to the petitioner as well as by extending the period of tenure of loan amount for one year.

For Petitioner in both the W.Ps. : Mr.A.Saravanan

For R1, R6 and R7 in both the W.Ps. : Mrs.B.Deepa
Central Government
Standing Counsel

For R4 and R5 in both the W.Ps. : Mr.R.Sivakumar
Government Advocate
(Criminal side)

For R8 to R12 in both the W.Ps. : Mr.B.Rajesh Saravanan
Standing Counsel

For R14 in both the W.Ps. : Mr.P.Ganapathi Subramanian



W.P.(MD)Nos.8905 and 8908 of 2021

WEB COPY

COMMON ORDER

These Writ Petitions have been filed for issuance of Writ of Mandamus, directing the respondents 1 to 3 to take action against the respondents 8 to 14, based on the complaint given by the petitioners to the effect that the Bank and its Branch Manager had indulged in unfair trade practices and had violated the Banking Guidelines and are attempting to sell away all the gold jewels that were pledged by the petitioners while availing the gold loan.

2. The case of the petitioners is that they had availed gold loan to the tune of Rs.95,85,000/- and Rs.94,24,200/- by pledging the gold jewels to the tune of 2469.3 grams and 2427.26 grams, respectively.

3. The further case of the petitioners is that they had approached the 12th respondent for extension of the tenure of the gold loan. However, the 13th respondent in a hasty manner, had proceeded further to bring the gold jewels that were pledged by the petitioners for auction. It is stated that the 13th respondent had issued a letter dated 15.04.2021,



W.P.(MD)Nos.8905 and 8908 of 2021

directing the petitioners to remit the loan amount with interest within 15 days from the date of receipt of the letter. However, the petitioners received a copy of the Caveat Petition on 17.04.2021 from the 14th respondent as if he had purchased the gold jewels of the petitioners.

4. According to the petitioners, the 13th respondent, who is the Branch Manager was hand in glove with the 14th respondent, who had purchased the gold jewels without following the due process and the entire gold jewels have been knocked away. It is under these circumstances, the petitioners had given their complaint to conduct an enquiry and to take action against the Bank and its Officials.

5. The 13th respondent/Branch Manager of the Federal Bank has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:-

"15. I submit that the averments in Para No 14 of the writ petition that "the respondents 8 to 14 at any time illegally appropriation of my gold jewels pledged by the petitioner in the 12th respondent bank under Gold Loan Accounts No.



W.P.(MD)Nos.8905 and 8908 of 2021

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11396100106417, 11396300010781, 11396300011052, 11396300011169, 11396300014544" are wrong and the writ petitioner is not entitled to any interim order.

16. I submit that the averments in Para No.15 of the writ petition that "my above representation dated 19.04.2021, with regard to taking action against the Respondents 8 to 14 by the Respondents 1 to 3 who being the controlling machinery of all non banking financial companies throughout India like the Respondents 8 to 12 bank namely Federal Bank and to take all necessary action against the 12th and 13th respondents for its unfair practice manner attempting to appropriation of my jewels as well as by using the other goondas persons arranged by the 13th respondent branch manager for his fraud play in appropriate of my gold jewels pledged with its branch and particularly the 14th respondent in dealing with its business of transaction against the guideline issued by the Reserve Bank of India and suitably directed to return my all gold jewel loan tokens as well as by extending the period of tenure of loan amount for one year" are wrong. The writ petitioner is not entitled for any relief.

17. I humbly submit that in fact, the writ petitioner, knowing very well that the Gold Loan period is only 3 months, had pledged her gold jewels and obtained loan from us.



W.P.(MD)Nos.8905 and 8908 of 2021

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18. I submit that as admitted by the writ petitioner, above mentioned Gold loans which were pledged on the month of August, 2020. And, the Gold Loans became due on November, 2020.

19. I submit that hence we informed the writ petitioner to renew the same and we made repeated calls to the writ petitioner. We also sent a registered notice to Mrs.Chirstina Catherine and Mr.Nivan Mathew on 01.01.2021 and 09.03.2021 respectively, which were received by the writ petitioner and her mother.

20. I submit that as the writ petitioner did not repay the loan amount, a paper publication was given on 10.03.2021 in Dinakaran Newspaper (Tamil Daily) mentioning all the Overdue of Gold Loan and stating that the Gold will be sold through private sale if not renewed/closed within the stipulated date.

21. I submit that even after that the writ petitioner had not remitted any amount in her gold loan account from the day of pledge which resulted in the account becoming NPA.

22. I submit that without any alternative, we resorted to private sale by obtaining permission from our Chennai Zonal



W.P.(MD)Nos.8905 and 8908 of 2021

office. The gold was sold to the highest bidder, who is 14th respondent, as per the Private sale procedures. We have followed all the rules pertaining to the private sale and got all the forms (Annexure I, II, III and IV) signed by the bidder/14th respondent.

23. I submit that in fact, on the date of private sale that is on 31.03.2021, the writ petitioner and her son were present in the Bank and they in person know that their gold jewels pledged with us were sold to the 14th respondent. The writ petitioner and his men made all kind of disturbance and threaten and tried to stop the private sale of gold without making any payment, in illegal manner."

6. Heard the learned counsel appearing for the parties.

7. In the instant case, the petitioners have admittedly borrowed loan from the Federal Bank and had also pledged their gold jewels. According to the petitioners, the pledged gold jewels were sold in a hasty manner to the 14th respondent and hence, the petitioners want an enquiry to be conducted in this regard and action to be taken. However, the counter affidavit filed by the 13th respondent/Branch Manager of the



W.P.(MD)Nos.8905 and 8908 of 2021

Bank shows that the gold loans were availed by the petitioners during the month of August, 2020 and the same became due and payable during November, 2020. The Bank had issued a registered notice to the petitioners, calling upon them to settle the loan amount. Since the loan amount was not repaid, a Paper Publication was effected on 10.03.2021 and thereafter, the gold jewels were brought for sale on 31.03.2021 and the same were purchased by the 14th respondent.

8. In the considered view of this Court, the issue involved in these Writ Petitions cannot be gone into, since there are disputed questions of facts. The Bank has taken a stand that they have put the petitioners on notice and thereafter, sold the gold jewels towards recovering the loan amount from the petitioners. In fact, even after the sale of the gold jewels that were pledged, there was some more amount that was due and payable from the petitioners and that is the reason why, the letter dated 15.04.2021, was issued to the petitioners, calling upon them to pay the balance amount that is due and payable by them. The petitioners have not admittedly repaid back the loan amount till date.



W.P.(MD)Nos.8905 and 8908 of 2021

WEB COPY

9. The materials placed before this Court show that the petitioners were put on notice and only thereafter, the gold jewels that were pledged, were sold towards recovering the loan amount borrowed by the petitioners. This issue cannot be further dealt with in these Writ Petitions and the relief sought for by the petitioners cannot be granted by this Court.

10. In view of the above, these Writ Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
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17.10.2023

To

1.The Secretary to Government,
Union of India,
Ministry of Finance, Jeevan Deep Building,
Parliament Street, New Delhi -1.

2.The Assistant General Manager,
Reserve Bank of India,
Main Building, Post Box No.901,
Sahid Bhagatsingh Road, Mumbai - 400 001.



W.P.(MD)Nos.8905 and 8908 of 2021

WEB COPY

- 3.The General Manager,
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- 4.The Superintendent of Police,
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- 5.The Inspector of Police,
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W.P.(MD)Nos.8905 and 8908 of 2021

N.ANAND VENKATESH, J.

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Common order in
W.P.(MD) Nos.8905 and 8908 of 2021
and
W.M.P.(MD)Nos.6694 & 6696 and
6699 & 6700 of 2021

17.10.2023