

HONOURABLE SRI JUSTICE RAJA ELANGO

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WRIT PETITION NO:17502 OF 2006

ORDER:

1. This writ petition is filed aggrieved by the refusal of the 1st respondent in considering the complaint of the petitioner in connection with the fraud committed in respondents No.3 and 4-Banks.

2. It is averred that the petitioner is doing wholesale business in cloth. Some customers of the petitioner's unit had sent draft payment during the course of business transactions and those drafts were intercepted and taken away from the post office and encashed by some unauthorized persons. Then, the petitioner filed a complaint before the 1st respondent, who in turn forwarded the same to the 2nd respondent. The 2nd respondent examined the maintainability of the complaint and forwarded the same to the 1st respondent on the ground of jurisdiction. But the 1st respondent refused to consider the complaint made by the petitioner. Hence, the petitioner approached this Court.

3. Heard and perused the material available on record.

4. The learned Counsel for the petitioner submitted that the 1st respondent refused the complaint of the petitioner on the ground that the contents in the complaint are not covered under the Banking Ombudsman Scheme. He further contended that as per Chapter No.IV, Clause No.12 sub clause (1)(f) of the Banking Ombudsman Scheme 2002, claims in respect of unauthorized or fraudulent withdrawals from deposit accounts, or fraudulent encashment of a cheque or a bank draft etc., may be filed with the Banking Ombudsman having the jurisdiction.

5. It is the grievance of the petitioner that the rejection of the complaint by the 1st respondent is arbitrary in nature, and that the order of the 1st respondent does not disclose as to how the complaint is not maintainable before the 1st respondent.

6. The 1st respondent has not chosen to file any counter even though the notice was served.

7. Considering the above facts and circumstances of the case, the 1st respondent is directed to consider the petitioner's complaint No.704/2005-2006 and pass appropriate orders, within a period of six months from the date of receipt of a copy of this order, in accordance with law, after hearing the petitioner and respondents No.3 and 4.

8. With the above direction, the Writ Petition is disposed of. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Justice Raja Elango

Date:10.3.2015

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