



**W.P(MD)No.11213 of 2015**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**WEB COPY**

**DATED : 10.07.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.11213 of 2015**

**K.Thanasekaran**

**... Petitioner**

**Vs.**

**1.Banking Ombudsman  
Reserve Bank of India  
Fort Glacis, 16, Rajai Salai,  
Chennai-600 001.**

**2.The Senior Regional Manager,  
Regional Office, Canara Bank,  
No.14A, St.Mary's Campus,  
East Veli Street, Madurai H.D.  
Madurai 625 001.**

**3.The Branch Manager,  
Canara Bank,  
Paramakudi.**

**4.The Inspector of Police,  
Town Police Station,  
Paramakudi.**

**... Respondents**

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the Respondents 1 to 3 to repay the amount of Rs.1,16,500/- with interest which was withdrawn by using fake ATM card.



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For Petitioner : Mr.S.Satheesh Kumar  
For Respondents : Mr.K.R.Laxman for R1  
: Mr.S.RA.Ramachandran  
Additional Government Pleader for R4  
: Mr.C.Jawahar Ravindran for R3  
: No appearance for R2

### **ORDER**

Heard the learned counsel on either side.

2. The petitioner is an account holder with Canara Bank. It was an NRI account. The case of the petitioner is that when he was abroad and ATM card was also with him, from his account, through various ATMs centre, a sum of Rs.1,16,500/- came to be withdrawn. The withdrawal had taken place in March and April 2012. The petitioner's family had lodged a complaint with the Town Police Station, Paramakudi. Crime No.209 of 2012 was registered. It was subsequently closed as 'undetected'.

3. The learned counsel appearing for the bank would contend that the bank was not at fault. It is specifically stated that ATM machine



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belonging to the other banks are involved. He would also firmly state that unless the original card is inserted, there cannot be any cash withdrawal. The petitioner on the other hand has filed an affidavit stating that the original card was always with him. The question arises as to why the petitioner did not lodge complaint after withdrawal had taken place on 16.03.2012. Since such disputed questions have arisen, it is not possible to adjudicate the issue in exercise of jurisdiction under Article 226 of the Constitution of India. The petitioner is permitted to move the jurisdictional consumer forum. If the complaint is filed within four weeks from the date of receipt of a copy of this order, the consumer forum shall entertain the same without reference to limitation. The bank shall not take technical defences. It must establish that it was not at fault. If the complaint is filed within four weeks, the jurisdictional consumer forum shall dispose of the complaint on merits and in accordance with law within a period of six months thereafter. I make it clear that I have not gone into the merits of the matter.



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**G.R.SWAMINATHAN, J.**

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4. With this liberty tot he petitioner, the writ petition is disposed of.

No costs.

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NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
rmi

To

The Inspector of Police,  
Town Police Station,  
Paramakudi.

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