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W.P.No.19067 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.06.2024

Pronounced on : 26.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.19067 of 2021

CT.Murugappan

... Petitioner

Vs.

- 1.The Union of India,
Represented by its Additional Secretary to Government,
Ministry of Finance,
Department of Economic Affairs,
Room No.129-B,
New Delhi 110 001(India)
- 2.Reserve Bank of India,
Consumer Education and Protection Department,
Central Office, First Floor, Amar Building,
Sir P.M.Road, Fort, Mumbai 400 001
- 3.Securities and Exchange Board of India,
Represented by its Chairman,
Plot No.C4-A, 'G' Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai 400 051, Maharashtra
- 4.Serious Fraud Investigation Office,
Represented by its Director,
2nd Floor, Paryavaran Bhavan, B3 Wing,
CGO Complex, Lodhi Road, New Delhi 110 003
- 5.The Commissioner of Police,
Chennai City,
Periyar EVR High Road,
Vepery, Chennai
- 6.MMTC-PAMP Private Limited
A13, Green Park Aurobindo Road New Delhi, 110 016 India



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7.MMTC,
Core-1 Scope Complex 7,
Institutional Area Lodhi Road,
New Delhi 110 003

8.Google India Digital Services Private Limited,
Having its registered office at 5th floor, DLF Centre,
Block 124, Narindra Place,
Sansad Marg, New Delhi 110 001

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 5 to consider the representation of the petitioner and take appropriate action against the sixth respondent and all its aggregators.

For Petitioner : M/s.AL.Ganthimathi,
Senior Counsel
for M/s.S.Y.Shaheedha Fathima

For Respondents

For R1 : Mr.G.Ilangovan,
Central Government Standing Counsel

For R2 : Mr.C.Mohan
for M/s.King & Partridge

For R3 : Mr.K.Balamurali
for M/s.Shivakumar and Suresh

For R5 : Mr.E.Vijay Anand,
Additional Government Pleader

For R6 : Mr.Bharadwaj Ramasubramaniam.R
for M/s.Vivrti Law



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For R7 : Mr.M.Santhanaraman

For R8 : Mr.Vinod Kumar
for Mr.Dheeraj Nair.D

ORDER

This writ petition has been filed for direction to respondents 1 to 5 to consider the representation of the petitioner seeking appropriate action as against the sixth respondent.

2. The petitioner had opened a google pay account by using his mobile phone number with the eighth respondent, in which there is a facility to purchase gold from the sixth respondent for various values on a fluctuating rate from time to time. It also provides for selling, delivering and gifting of the purchased gold from the digital 'gold vault' through the eighth respondent. The petitioner had purchased gold totalling 6519.9 milligrams. While being so, on 03.07.2021, when the petitioner visited the sixth respondent and enquired about the delivery of gold, the petitioner was informed that he could exercise delivery option



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available in application and it will be delivered on payment of delivery charges. Though the petitioner exercised the option of delivery by entering T.Nagar, Chennai pin code i.e. 600 017, it was replied that no delivery in that area currently and it was shown as next. When the petitioner entered Kilpauk, Chennai pin code as 600 010, it was shown as same result. However the petitioner was permitted to purchase gold, but he was not allowed to receive gold which was purchased by him. Further, if the petitioner optioned 'sell', it is to be exercised with difference of price of Rs.30/- less per milli gram. Therefore, the petitioner caused legal notice to the sixth respondent thereby calling upon to deliver the gold purchased by the petitioner together with compensation. Though the petitioner was served with reply notice, the petitioner was not delivered gold. Therefore, the petitioner submitted detailed complaint with respondents 1 to 5 to take appropriate action as against the sixth respondent and its aggregators in the manner known to law.

3. The sixth respondent has filed counter and the learned counsel appearing for the sixth respondent raised preliminary objection that the writ petition itself is not maintainable as the petitioner has not



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approached the consumer grievance cell. He further submitted that the sixth respondent is a joint venture between the Government of India and PAMP ventures S.A. of Switzerland. Whenever the customers purchase gold through online, it is allocated as physical gold under their direct ownership and stored within fully insured, certified vaults located in highly secured premises.

4. The learned counsel appearing for the sixth respondent further submitted that the petitioner's grievance notwithstanding its validity or otherwise would strictly and if at all, be a consumer grievance. The terms with regards to redemption / delivery of digital gold are that consumer can select the quantity and denominations of gold they wish to redeem from the available options of coins on the partner platform i.e. eighth respondent herein, and a customer can request for all or part of their gold holding between 1 gram and multiples thereof. Further, the pincode mentioned in the delivery address should be in serviceable location of logistic partner, if it is not, then the order shall be rejected and in that case, a consumer can sell back their holdings provided open sale back window is open. The customer must confirm the transaction by



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paying the additional making and delivery charges.

5. Admittedly, the petitioner had purchased gold to the tune of 6519.9 milligrams from the sixth respondent through the eighth respondent platform. When the petitioner made request for delivery of that gold from different address by quoting pin code, the petitioner received same reply as that 'no delivery in that area currently and go to next. The sixth respondent also admitted that the petitioner had purchased digital gold from the sixth respondent registered with client ID.No.BAARECQIQCAIBAELXXR2YPI and as on there is gold balance of 6.6202 grams. However the sixth respondent is disputing that the petitioner wanted for delivery, but his request was rejected as 'no delivery in that area currently'.

6. In view of the above, the sixth respondent is directed to deliver the gold which was admittedly purchased by the petitioner to the tune of 6.6202 grams of gold directly to the petitioner forthwith, failing which the fifth respondent is directed to take appropriate action against the sixth respondent in accordance with law as per the complaint lodged



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by the petitioner.

7. With the above direction, this writ petition is disposed of.

There shall be no order as to costs.

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Neutral Citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

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The Union of India,
Ministry of Finance,
Department of Economic Affairs,
Room No.129-B, New Delhi 110 001(India)
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Consumer Education and Protection Department,
Central Office, First Floor, Amar Building,
Sir P.M.Road, Fort, Mumbai 400 001
3. Chairman,
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