IN THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION

AT SALEM

Complaint No. \_\_\_\_\_\_of 2024

IN THE MATTER OF:

M/s Srinivasa Agencies,

Rep. by its Managing Partner,

S.Arunkumar, S/o P.Sundararajan,

No.10, Meenatchi Nagar,

TVS Colony, Hasthampatty, Salem-636 007 . …Complainant

-Versus-

1. The Manager ,

HDFC Bank, Salem Main Branch,

D.No.5/241, F.Meyyanur,

Rathna Arcade, Five Roads,

Salem-636 004.

2. R.Kannappan,

S/o Ramanathan,

19-2, Perumal Koil Street,

Swarnapuri,

Salem-636 004. …Opposite parties

COMPLAINT UNDER SECTION 35 OF THE CONSUMER PROTECTION ACT, 2019

MOST RESPECTFULLY SHOWETH:

1. The address of the Complainant for the purpose of service of summons, notice, etc is as shown in the cause title above and that of his counsel
2. The address of the Opponents for the very purpose is the same as shown in the cause title above.
3. Herein the above-named Complainant most respectfully submits as under,
4. That the Complainant is a partnership firm M/s Srinivasa Agencies, represented by its Managing Partner Mr. S. Arunkumar, carrying on the business of wholesale of medicines and having its place of business at No.10, Meenatchi Nagar, TVS Colony, Hasthampatty, Salem-636007.
5. It is submitted that the Opposite Party No.1 is HDFC Bank Ltd., having its branch office at Salem Main Branch, D.No.5/241, F.Meyyanur, Rathna Arcade, Five Roads, Salem- 636004 where the Complainant holds a current account.
6. It is submitted that the Opposite Party No. 2 Mr. R. Kannappan is a partner in the Complainant firm and resides at 19-2, Perumal Koil Street, Swarnapuri, Salem-636004.
7. It is submitted that the complainant is involved in the business of the wholesale of medicines for the purpose of earning livelihood. Therefore, the same shall not form under the ambit of commercial transaction.
8. It is submitted that as a part of the business the partnership deed was executed between the Complainant and Opposite Party No.2 on 01.01.2017 to carry on the business of wholesale of medicines in the name and style of M/s Srinivasa Agencies. As per the partnership deed, the Complainant holds 90% stake in the firm and Opposite Party No.2 holds 10% stake.
9. It is submitted that as per clause 9 of the partnership deed, only the Complainant Mr. S. Arunkumar has been authorized to open bank accounts and operate the same independently on behalf of the Complainant firm M/s Srinivasa Agencies.
10. It is submitted that the complainant came to know that the opposite party 2 in collusion with the opposite party has obtained a swiping machine in the name of the complainant’s firm.
11. It is submitted that the Opposite Party No.1 bank, without verifying the partnership deed and necessary documents, had issued a swiping machine in the name of M/s Srinivasa Agencies to Opposite Party No.2 Mr. R. Kannappan and also linked the swiping machine to the personal account i.e current a/c No.500200031053271 of Mr. R. Kannappan, which is against clause 9 of the partnership deed, which authorize only the complainant to open the bank account.
12. That the Opposite Party No.2, taking advantage of the swiping machine linked to his current account, has swindled and misappropriated the firm's funds to the tune of Rs. 10,00,000 during the period from 02.07.2018 to 10.06.2019.
13. That the act of the Opposite Party No.1 bank in issuing swiping machines and allowing operation of the accounts by Opposite Party No.2, who was not authorized as per the partnership deed, amounts to gross negligence and deficiency in service. This has caused huge financial loss and mental agony to the Complainant.
14. That the Complainant issued a legal notice dated 03.12.2020 to the Opposite Party No.1 in this regard but received no satisfactory response.
15. It is submitted that the cause of action arose on various dates when the illegal transactions took place between 02.07.2018 and 10.06.2019 and when the legal notice was issued on 03.12.2020.
16. That the territorial jurisdiction of this Commission is attracted since the opposite Party No.1 branch office is situated within the territorial limits of this Commission.

**CAUSE OF ACTION**:The cause of action arose for the complainant between 02.07.2018 and 10.06.2019 when the illegal transactions and misappropriation of funds happened through the swiping machine linked to Opposite Party No.2's personal account. It further arose on 03.12.2020 when the complainant issued a legal notice to Opposite Party No.1 in regard to the deficiency in service but received no satisfactory response.

**JURISDICTION**: The Hon’ble District Consumer Disputes Redressal Commission at Salem has pecuniary as well as territorial jurisdiction to conduct an inquiry and adjudicate the present dispute. Since the Complainant and the Opposite Party 2 are both based in Salem, the Commission has territorial jurisdiction to deal with the same. Further, the consideration is within the pecuniary limit established under the Consumer Protection Act, 2019.

**COURT FEE:** The Complainant is complying with the Court Fees Mandated under Rule 7 of the Consumer Protection (Consumer Dispute Redressal Commission) Rules, 2020.

**EVIDENCE**:

1. Copy of partnership deed dated 01.01.2017 showing stake of partners and clause regarding bank operations.
2. Copy of application form submitted by Opposite Party No.2 to Opposite Party No.1 bank for obtaining swiping machine in the name of M/s Srinivasa Agencies.
3. Bank account statement of Opposite Party No.2 showing credit of Complainant's funds.
4. Copies of invoices/bills showing transactions done by Opposite Party No.2 using the swiping machine linked to his personal account.
5. Statement of accounts audited by auditor showing discrepancy and misappropriation of funds.
6. Copy of legal notice dated 03.12.2020 sent by Complainant to Opposite Party No.1.
7. Acknowledgment of receipt of legal notice by Opposite Party No.1.

**PRAYER**:

In view of the facts and circumstances stated above, it is therefore most respectfully prayed that this Hon'ble Commission may be pleased to:

a) Direct the Opposite Party No.1 to pay a sum of Rs. 40,00,000/- towards compensation for deficiency in service and negligence;

b) Direct the Opposite Party No.1 to pay a sum of Rs. 5,00,000/- for the mental agony, stress and strain caused to the Complainant;

c) Award cost of this complaint;

d) Grant any other relief that this Hon'ble Commission may deem fit and proper in the interest of justice.

Salem  
Date: Complainant

Through its Managing Partner

Mr. S. Arunkumar

**VERIFICATION:-**

I, S.Arunkumar, S/o P.Sundararajan, resident of No.10, Meenatchi Nagar, TVS Colony, Hasthampatty, Salem-636 007 District, do hereby solemnly affirm that the facts stated above in paras 1 to 13 are true to the best of my knowl­edge and based on the records maintained by me, which I believe to be true.

Verified at, on this \_ day of \_\_\_

**ANNEXURE OF EVIDENCE**