

**BEFORE THE BANGALORE URBAN II ADDITIONAL
DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,
SHANTHINAGAR, BANGALORE - 560027**

DATED THIS THE 08TH DAY OF JUNE 2022

CONSUMER COMPLAINT NO.1030/2020

PRESENT:

**SMT M.SHOBHA, B.Sc., L.L.B.,
SRI B.DEVARAJU, B.A.L., L.L.B.
SMT.V.ANURADHA, B.A., LL.B.,**

**... PRESIDENT
... MEMBER
... MEMBER**

COMPLAINANT:

1. Mr.B.R.Jagadish,
S/o Late B.V.Ramakrishnaiah,
Aged about 69 years,
Retd. From Central Government Service,
2. Mrs.H.S.Nagamani,
Aged about 64 years,
Retd. From Central Government Service,

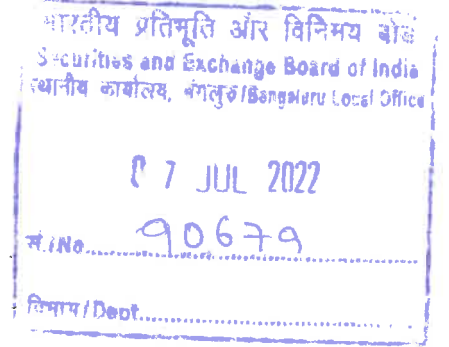
Both residing at Address:
#609, 2, C Cross 6th Main,
2nd Block, Kalyana Nagar,
Bengaluru-560043.

(Complainant No.1 is Inperson)
(Complainant No.2 is Deleted as not pressed as per Court
order dated 22.12.2020)

V/s

OPPOSITE PARTIES:

1. KARVY DATA MANAGEMENT/KARVY GROUP Viz.,
Karvy Fintech Limited, KFPL,
#59, Skanda, Putanna Road,
Basavanagudi,
Bengaluru-560004,



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Authorized Representative.

2. KARVY COMPUTERS SHARES PVT. LTD. (KCSPL),
Putanna Road,
Basavanagudi,
Bengaluru-560 004,
Authorized Representative.
3. KARVY STOCK BROKERS LIMITED (KSBL),
Vanivillas Road,
Basavanagudi,
Bengaluru-560004,
Authorized Representative.
4. Mr.C.S.Prabhudev,
Agent for Sunbeam Capital Market
Mutual Fund Park,
M.G.Road,
Tumkur-572101,
Authorized Representative.
5. PROFESSIONAL COURIERS,
M.G.Road, Tumkur,
C/o Agent for
Sunbeam Capital Market Mutual Fund Park,
M.G.Road,
Tumkur-572101,
Authorized Representative.
6. SEBI-Stock Exchange Board of India,
 - a) Plot # C4-A, G Block, Bandra Kurla Complex,
Bandra (East),
Mumbai-400051,
Authorized Representative.
 - b) 2nd Floor Jeevan Mangal Building,
No.4, Residency Road,
Bangalore-560085,
Authorized Representative.

(OPs No.1, 2, 3 & 6 are placed Exparte)
(OP No.6 send version by post on 18.09.2021)



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(OP No.4 Person)
(OP No.5 is Rep. by Adv. Sri Kiran.S.S)

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Author **SMT.M.SHOBHA, PRESIDENT**

// JUDGMENT //

1. This complaint has been filed by the complainant under Section 35 of the Consumer Protection Act, 2019 (hereinafter referred as an act) to direct the opposite party to make good the loss in the case of the complainant highest NAV prevailed in the market between (3.12.2018 to 05.12.2018) or average NAV value may be applied for redemption (whichever is beneficial) and corresponding proceeding amount to be credited to the respective bank accounts by KARVY Group, for deficiency of service complainants are put into hardship, mental agony and loss of valuable time in addition to financial loss it may be ordered to pay suitable compensation/penalty by all the opposite parties to the extent as deem fit by the Forum, in addition the agent opposite party No.4 may be directed to make good the loss in the transaction HDFC cited in the narration, SEBI may be directed to take suitable action against KARVY Group and also to ensure suitable remedy for complainant by them. They may be also be penalized for irresponsible disposal of the complaint without study.

2. The case of the complainant in brief is as under;



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The complainant is a retired Central Government Employee and his one of the friend introduced opposite party No.4 and through him the complainant invested the money in Mutual Funds, Firms. On account of deficiency of service on the part of the opposite parties No.1 to 6 the complainant has sustained heavy loss and damage to the extent of Rs.1,50,000/-.

3. It is further case of the complainant that the complainant has sent an application for redemption of Invesco India Contra Fund Growth under folio reference

- i. 2107170416
- ii. 21071724121

Sent to KCSPL Bengaluru on 29.11.2018 by the opposite party No.4 through opposite party No.5 and delivered on 01.12.2018 at 12:00 P.M itself. Where it was processed on 06.12.2018 and on account of that, the complainant put to heavy loss and damage due to depression in the Market on 06.12.2018. In between dates, NET ASSES VALUE (NAV) was good in the market.

4. If is further case of the complainant that after enquiry it was informed that the courier was delivered by the opposite party No.5 in the other building at K.S.B.L, Vanivilas Road. Later on processed on 06.12.2018 on receipt of the courier at K.C.S.P.L. As the courier was meant for addressee i.e. K.C.S.P.L, K.S.C.B.L should have not received it in the first place. Having received should have been forwarded or delivered without loss of time to KSCPL at Puttanna Road, Basavanagudi. Both building being in the same area locality and vicinity. Probably in normal course, it would



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have been handed over on the same day or next day through a messenger by keeping a record of it. It is revealed that the practice prevails to send such letter through messenger and being messenger was on leave it was delayed to hand over. For internal reasons investors cannot be put into loss and suffer and lost the faith in the investment itself. Hence, necessity of sending through post/tappal does not arise being buildings are situated adjunct.

5. It is further case of the complainant that on 01.12.2018 being a Saturday and 02.12.2018 being a Sunday latest they should have sent/received on 03.12.2018 at any cost. Here they have delayed inordinately and on account of deficiency of service the complainant is put into heavy loss not only profit but also principal amount. Since, in between days, i.e. 03.12.2018 to 5.12.2018 the NAV was high and it been processed there would not have been any loss. They are same group and dealt with Stock Markets and Mutual Funds business and suppose to know the value of correspondence as it necessarily relates to Market Transaction. Moreover, the courier receivers are being educated no such costly lapse is entertainable. Hence, responsibility lies on them to ensure to handover to proper section. The delay is not explained except information about receipt of courier on 06.12.2018.

6. It is further case of the complainant that a letter was sent to the complainant on 22.02.2019 by M/s.KARVY FINTECH PVT., Ltd., Hyderabad stating that request made on 19.02.2019 for redemption of units under above folio



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reference has been rejected. There was no such request as it was already redeemed on 06.12.2018. On expressing the complainant reservation about this development M/s. INVESTCO Mutual Fund have apologized for the same in their letter dated 03.04.2019. This shows as to how KARVY Group monitor the marketing by such lethargic and casual approach.

7. It is further case of the complainant that SEBI have just acknowledged by indicating the complaint number and TROLL number with no result. The password number given by them found to be wrong and no response in the TROLL number. New password generated to look into the status of the complaint. It is difficult for Senior Citizen to access the digital world. SEBI website indicates the complaint is dispose off by citing letter dated 03.04.2019 of Invesco Mutual Fund which has no relevance as the grievance of the complainant is about delay in processing the claim originally on 06.12.2018. This particular issue has been resolved i.e. the request said to have been made on 19.02.2019 and thereby question of further correspondence does not arise. SEBI has mistaken that the reply of invesco Mutual Fund is accepted and thereby complaint is disposed off. This is not so as the complaint dated 07.01.2019 is still pending which relates to delay in redeeming the units on 06.12.2018 which should have been done between 03.12.2018 to 05.12.2018.

8. It is further case of the complainant that the opposite party No.4 being an agent of Sunbeam Capital Market Mutual Fund Park has made an error by mentioning incorrect

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address of K.S.B.L office on the envelope addressed to KCSPL. In case of opposite party No.4 as an evidence of deficiency of service the transaction request dated 30.11.2018 sent by him in the case of HDFC Mutual Funds Folio No.14378989 to CAMS was returned for the reason that number of units to be redeemed is not mentioned therein vide reference H/NIGO/469290/CAMSTHUN dated 30.11.20108 of CAMS. Intention was to redeem all the units but could not be redeemed for the needy purpose of that point of time. The letter addressed to opposite party No.4 dated 07.1.2019 narrates the deficiency of service as well as courier who did not deliver the courier to the proper addressee which could have been traced out easily by them with their little efforts. A letter was also addressed to opposite party No.5 and sent through opposite party No.4 no reply from either of them and evasive over phone calls. Hence the complainant has filed this complaint.

9. After receipt of notice, the opposite parties No.1, 2, 3 & 6 remained absent and have been placed exparte. Later opposite party No.6 send a version by post on 18.09.2021. Opposite parties No.4 & 5 appeared and filed separate version. Opposite party No.6 send a version by post on 18.09.2021.

10. It is the case of the opposite party No.4 that the allegations made against him are all false. The address mentioned by him is "KCSPL" Skanda, Puttana Road, Basavanagudi, Bangalore - 560 004 which is proper and correct. But this opposite party has not written the address as KSBL as alleged by the complainant.



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11. It is the further case of the opposite party No.4 that the application form for redemption was given with an advice to fill in the form with required information such as amount/no. units to be redeemed and to sign the form and advise him to send through courier giving him a cover also bearing his address as a sender on the cover. There ends his obligatory responsibility and he is in nowhere responsible for any loss or damage caused to the complainant as alleged. Hence there is no wrong or mistake of fact committed by this opposite party which is punishable in accordance with law. Therefore, opposite party No.4 prays for dismissal of the complaint.

12. The opposite party No.5 filed version alleging that the complaint is not maintainable and it is barred by law of limitation. The relief sought by the complainant against this opposite party has no locus standi and the complainant has simply dragged this opposite party to the present complaint for unlawful gain. The complaint is frivolous, vexatious and harassive. There are no grounds made out against this opposite party. There is no deficiency of service on the part of this opposite party. The complainant along with opposite party No.4 was negligent and furnished wrong address of the addressee and absolutely there was no deficiency of service on the part of this opposite party.

13. It is further case of the opposite party No.5 that the delivery executives delivered the courier at the correct address and also obtained acknowledgement and seal. The courier was not delivered intentionally to a wrong address



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for the negligence and error on the part of the complainant and opposite party No.4 this opposite party No.5 cannot be held responsible and blamed. Hence the opposite party No.5 prays for dismissal of complaint.

14. Opposite party No.6 filed version stating that the SEBI is established under the Securities and Exchange Board of India Act, 1992 for performing statutory functions assigned to it under the said act. As such cannot be said to be rendering any services for consideration as contemplated under Section 2(42) of Consumer Protection Act 2019. The performance of statutory functions cannot be construed as rendering of any services for consideration in terms of the Act as no fees is charged by SEBI from any investors for the functions perform.

15. The opposite party No.6 has narrated citations of the Hon'ble Supreme Court and Hon'ble National Commission. The opposite party No.6 further states that in view of the decisions of the Hon'ble Supreme Court and Hon'ble National Commission the complaint needs to be dismissed. The complaint is not at all maintainable against this opposite party No.6 .

16. It is further case of the opposite party No.6 that it has no role to play as the matter relates to transaction between the complainant and other opposite parties. The complainant made allegations that the complaint made to this SEBI was closed on the basis of comments received from the mutual fund. In case the complainant was not satisfied with the manner of closure/redressal of his complaint, he has the



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option to make a review of his complaint. This option is available in scores. This opposite party is a regulatory for the securities market and does not provide any service within the meaning of the terms and expression under the Act. Hence no consumer complaints are maintainable against SEBI. Hence opposite party No.6 prays to discharge or delete his name or to dismiss the complaint against them.

17. The complainant has filed counter objection to the version filed by the Opposite party No.4. It is the case of the complainant that mere mentioning general practice to defined without impractical is not justifiable. Basically being an agent of capital market encourage for investment in order to get commission and for the said reason once investment is made through him subsequent correspondence including redemption sought by the investor is carried by opposite party No.4. Since transaction request for redemption to be sent to concerned redemption center. It is kept with opposite party No.4 duly signed by the investors at the time of investment. Required information ascertained from the investors and filled by opposite party No.4 and sent directly in order to avoid delay and to speed up redemption process like online transaction. Redemption request of investors is sent in bulk to the concerned redemption center knowing correct address.

18. It is further case of the complainant that he has handed over several transactions slips duly signed for redemption of mutual funds along with his wife's slip. No need to mention number of units and amounts as the whole investment was



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to be redeemed. As such it is filled by opposite party No.4 and it was sent to concerned redemption center by opposite party No.4.

19. It is further case of the complainant that the HDFC transaction slip returned for the reason mentioned in the complaint which was filed by opposite party No.4 as could be seen in the slip enclosed to the complaint. Investco India Contra Fund sent to wrong address as explained in the complaint. Pointing these omissions this complainant sent a letter dated 07.11.2019 to opposite party No.4 by speed post and delivered as per postal authority. There is no reply till today. There is no cover bearing address of opposite party No.4 given to this complainant and no transaction request posted to any redemption center through professional courier Tumkur by this complainant. This complainant came to know from courier receipt enclosed to reply of opposite party No.4 address of professional courier of Tumkur and he has made arrangement to send the returned notice to courier again. In view of the above facts, the opposite party No.4 cannot escape from responsibility.

20. The complainant has filed his affidavit evidence and relies on Ex.P1 to P13. The opposite parties No.4, 5 & 6 not led their evidence. Complainant has filed his written arguments and also submitted oral arguments. Opposite parties No.4, 5 & 6 have not filed their written arguments and also not submitted oral arguments. We perused the records.



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21. The following points do arise for our consideration;

1. Whether the complainant proves the deficiency of service on the part of the opposite parties?

2. Whether the complainant is entitle to the reliefs claimed in the complaint?

3. What order?

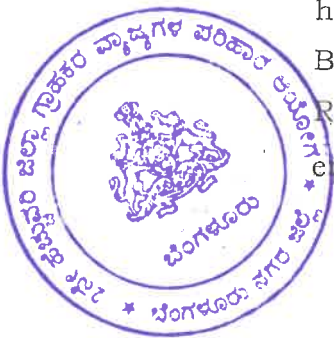
22. Our findings on the above points are as under;

i) **POINTS NO.1 & 2:** In the Negative;

ii) **POINT NO.3:** As per final order for the following;

REASONS

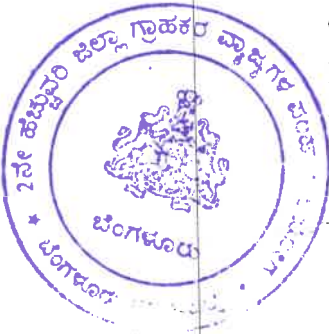
23. **POINTS NO.1 & 2:** We carefully perused pleading and evidence of the complainant and the version filed by the opposite parties. The complainant has reiterated the allegations made in the complaint and further stated that he has invested an amount of Rs.8,00,000/- in the Invesco Contra Fund Growth Mutual Fund. He has sent application for redemption of Invesco India Contra Fund Growth under Folio reference 210172121. The said request application for redemption was given to opposite party No.4 at Tumkur on 28.11.2018 as per Ex.P3 to do the needful. After that the opposite party No.4 sent transaction request for redemption to M/s.KARVY, Bengaluru on 29.11.2018 through courier service i.e. opposite party No.5. After that this complainant has received the message on 11.12.2018 from M/s.ICICI Bank Limited that his account was credited with Rs.7,69,289.80 paise. After knowing the information, he enquired with opposite party No.4 but did not get any



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information regarding payment of the redemption of the Invesco India Contract Fund Growth. After that he went to opposite party No.1 on 12.12.2018 to know the delayed redemption of the said scrip. After that he came to know that the scrip were received by them on 06.12.2018 and they have processed the same on the same day and the proceeds have been arranged for the credit of his account with ICICI Bank. After that he has also enquired for the delay by giving a letter on 12.12.2018. He got the reply from M/s. KARVY Fintech on 28.12.2018 wherein they had informed him that the courier had been delivered to their KSBL (different building) on 1st December 2018. It was supposed to deliver at KARVY MFS Building but due to difference address mentioned on the envelop it has been delivered at different KARVY building. From their they have received the redemption request on 06.12.2018 and the same has been processed on the same day.

24. It is further contention taken by the complainant that the NAV of the said scrip on 03.12.2018, 04.12.2018, 05.12.2018 and 06.12.2018 are 46.02, 46.01, 45.47, 44.80 respectively. The complainant immediately sent letter on 07.01.2019 and the reasons for the delay given by them on 28.12.2018 were not acceptable and he has requested them to make good the loss incurred in this regard as the scrip could have redeemed at the earliest either on 03rd or 4th December and in any case on 5th December atleast. But he has not received any reply. Again he has demanded opposite party No.4 & No.5 also to make good the loss on account of their negligence but they have not at all replied



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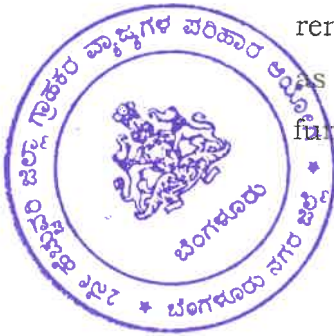
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to her letter. The opposite parties No.1 to 5 are all have committed negligence in their service and they have collectively and individually caused huge financial loss to this complainant.

25. In support of his contention, he has produced the letter sent to opposite party No.1 and the email sent by the Fintech dated 28.12.2018 to the complainant as per Ex.P4 and the copy of the letter of the complainant to opposite party No.1 as Ex.P5 and copy of letter of complaint to M/s.KARVY Saleum dated 07.01.2019 and the letter of complaint sent to opposite party No.4 as Ex.P7 and letter of complaint sent to opposite party No.5 the professional couriers as Ex.P8 and copy of letter of the complaint sent to opposite party No.6 and two letters sent to KARVY Fintech Pvt. Ltd. as per Ex.P10 & P11 dated 22.02.2019 & 28.02.2019.

26. On the other hand, the main contention taken by the opposite party No.6 is that the complaint against the opposite party No.6 is not at all maintainable since it is a statutory body performing statutory functions assigned to it under the Act. Opposite party No.6 is not rendering any services for consideration as contemplated under Section 2(42) of the Consumer Protection Act 2019. The performance of statutory functions cannot be construed as rendering of any service for consideration in terms of the act as no fees is charged by SEBI from any investors for the functions performed.

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8/6/22



27. The opposite party No.6 has also relied on the decisions of the Hon'ble Supreme Court and various State Commissions and National Commission.

28. It is also clear from the decisions that the complaint against the opposite party No.6 is not at all maintainable since it is a regulatory body constituted under the Act of the Parliament and does not provide any service for consideration. Hence the complaint against this opposite party No.6 is liable to be rejected. Since, there is no relationship of consumer exists between the complainant and opposite party No.6. The opposite party No.6 has no role to play for the delay that was caused to the complainant in processing of his redemption request by any inter-mediatory. The complaint filed by the complainant to this opposite party No.6 was also closed and the complainant has not availed the option of review of his complaint.

29. The opposite party No.4 who is only a agent and he has clearly stated that he has mentioned the address as KCSPL "Skanda", Puttanna Road, Basavanagudi, Bangalore-560004 on the envelope given by the complainant which is proper and correct. He has specifically denied that he has written the address as KSBL as alleged by the complainant. The application form for redemption was given to him by the complainant with an advice to fill in the form with required information such as amount/number units to be redeemed and to sign the form and advised him to send through courier by giving him a cover also bearing his address as sender on the cover. There ends his responsibility and he is



M. J. [Signature]
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nowhere responsible for any damages or loss caused to the complainant. There is no wrong or mistake of fact committed by this opposite party No.4. He has also produced the courier receipt and which clearly discloses that the envelop was sent to KARVY Computers Pvt. Ltd., Bangalore.

30. The opposite party No.5 who is a professional courier has taken the contention that there is no deficiency of service on his part. The article was delivered to the mentioned address by the addressor and the same being collected without any further query. There is no latches or lacuna on the part of this opposite party No.5. This opposite party No.5 cannot be held responsible and blamed for the negligence and the error on the part of the complainant or opposite party No.4. He has also produced the copy of the acknowledgment dated 01.12.2018 for having served the courier to the opposite party No.1 company and it was received by opposite party No.3. Hence, there is no deficiency of service on the part of the opposite party No.5 as he has delivered the article to the addressee mentioned on the envelope.

31. It is undisputed fact that the complainant admittedly sent the application for redemption of the shares to opposite party No.2 by mentioning the address of opposite party No.3. Even though there was a mistake in the address the opposite party No.3 has forwarded the same to the opposite party No.2 on 06.12.2018. Immediately after receipt of the request, they have processed and redeemed the shares of the complainant as per the prevailing NAV.



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32. The complainant is a well educated individual and he is a retired government employee and he is ought to know the merits and demerits in financial market investment. The complainant himself has committed a mistake in mentioning the address of opposite party No.3 instead of mentioning the address of opposite party No.2 and giving it to the opposite party No.4 for processing the same. When there is no privity of contract between the complainant and opposite party No.2 as they have not received any consideration for the processing the share transfer application. Admittedly, the opposite party No.6 is a statutory body and the complainant would not have made the opposite party No.6 as a party in this complaint as they are not rendering any service for any consideration and they are only discharging their statutory duties. The transaction i.e. the investment and the redemption of shares are subject to market risk. As such the complainant ought to be more diligent while dispatching the courier or processing the redemption request through opposite party No.4. When the complainant himself is not diligent in processing his request for redemption of shares, he cannot made the opposite party No.1 to 5 liable for the delay caused in processing the shares. Under these circumstances, the complainant has failed to establish the deficiency of service on the part of opposite parties No.1 to 5. The complaint is not at all maintainable against the opposite party No.6. Hence the complaint is liable to be dismissed.



M. Shetha
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33. **POINT NO.3:** In view of the discussion referred above, the complaint requires to be dismissed. Hence, we proceed to pass the following;

ORDER

The complaint is dismissed without cost.

Supply free copy of this order to both the parties.

Return spare copies of the pleading and evidence to the parties.

(Dictated to the Steno, typed by her, transcript corrected, revised and then pronounced by the open Commission on **08TH DAY OF JUNE 2022**).

V.A. elho 8/6/2022
(V.ANURADHA)
MEMBER

B. Devaraju
(B.DEVARAJU)
MEMBER

M. Shobha
(M.SHOBHA)
PRESIDENT 8/6/22

//ANNEXURE//

CERTIFIED TO BE TRUE COPY (FREE)

Witness examined for the complainant's side:

Mr.B.R.Jagadish, who being the complainant has filed his affidavit.

Pa. S. D.
Asst. Registrar-Cum-Asst.
Administrative Officer-II A
District Consumer Disputes
Redressal Commission

Place *B.lore* Dated *..14/06/22*

List of documents filed by the complainant:

1. Ex.P1: Certificate U/s 65B of Indian Evidence Act,
2. Ex.P2: Copy of complainant's unsigned letter,
3. Ex.P3: Copy of E-mail dated 28.12.2018 and 07.01.2019,
4. Ex.P4: Copy of the letter dated 07.01.2019 to Karvy Computers i.e. OP-2,
5. Ex.P5: Copy of another letter dated 07.01.2019 to Karvy Saleum,



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6. Ex.P6: Copy of letter dated 07.01.2019 to C.S.Prabhudev,
7. Ex.P7: Copy of letter dated 07.01.2019 to Professional Courier, Tumkur,
8. Ex.P8: Copy of the letter to SEBI dated 07.01.2019,
9. Ex.P9: Copy of the letter to Karvy Fintech Pvt. Ltd., dated 22.02.2019,
10. Ex.P10: Copy of the letter dated 28.02.2019 to M/s.KARVY Fintech Pvt. Ltd.,
11. Ex.P11: Copy of the letter of SEBI Mumbai to complainant dated 28.03.2019,
12. Ex.P12: Copy of the letter of Invesco Mutual Fund dated 03.04.2019,
13. Ex.P13: Copy of letter of CAMS to complainant dated 30.11.2018.

Witness examined on behalf of the Opposite Parties:

-NIL-

List of documents filed by the Opposite Parties:

-NIL-

V.A.ello 8/6/2022
(V.ANURADHA)
MEMBER

W. Devaraju 8/6/22
(B.DEVARAJU)
MEMBER

M. Shobha 8/6/22
(M.SHOBHA)
PRESIDENT



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[Signature]
Asst. Registrar-Cum-Asst.
Administrative Officer-II A
District Consumer Disputes
Redressal Commission

Place *B.L.O.R.* Dated *14/06/22*

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