



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.11.2019

CORAM:

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. No. 8113 of 2019

and

W.M.P. Nos. 8705, 8708, 12356 and 29502 of 2019

M/s. Sri Devi Karumariamman Educational Trust
Represented by its Trustee Mr.J.Kumaran
Having office at No.5, Chellammal Complex
Arcot Road, Janaki Nagar,
Valasaravakkam, Chennai.

... Petitioner

-vs-

1. Indian bank
Represented by its Assistant General Manager
Kodambakkam Branch
4/12, Trustpuram III Cross,
Kodambakkam, Chennai - 600 024.

2. Central Bank of India,
Rep. by its Assistant General Manager,
Mid Corporate Branch,
48/49, Montieth Road, Egmore,
Chennai - 008.

3. Ministry of Adi-Dravidar and Tribal
Welfare Department, Adi-Dravidar and
Tribal Welfare Directorate, Chepauk,
Triplicane, Chennai-600005.

... Respondents

(R2 impleaded vide order dated 20.06.2019 in WMP.No. 17033/2019)
(R3 impleaded vide order dated 03.10.2019 in WMP.No. 28219/2019)

Prayer:- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorari, calling for the records of the Respondent herein, pertaining to the impugned letter No. Nil dated 16.03.2019 and quash the same.

For Petitioner : Mr. S. Pushpakaran

For Respondents: Mrs. Rita Chandrasekar
for M/s. Aiyar & Dolia (for R1)
Mr. T. S. Rajeev Gandhi
for NVS Associates (for R2)
Mr. M. Karthikeyan
Additional Government Pleader (for R3)



O R D E R

Heard Mr. S. Pushpakaran, Learned Counsel for the Petitioner, Mrs. Rita Chandrasekar, Learned Counsel for the First Respondent, Mr. T.S. Rajeev Gandhi, Learned Counsel for the Second Respondent and Mr. M. Karthikeyan, Learned Additional Government Pleader for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, which is a trust running Educational Institutions had availed credit facilities from the Second Respondent, viz., Central Bank of India, and as there was default in payment of those dues, proceedings for recovery of the debt was instituted in O.A. No. 496 of 2016 before the Debts Recovery Tribunal - II, Chennai. In the said proceedings, an order dated 12.07.2017 in I.A. Nos. 290 to 293 of 2017 in O.A. No. 496 of 2016 had been passed by the Debts Recovery Tribunal - II, Chennai that the Petitioner has to route the entire admission fees for the academic year 2017-2018 through the existing Current Account No. 3173997243 maintained with the Second Respondent. As the Second Respondent had come to know that despite the aforesaid order, the Petitioner was banking with the First Respondent, viz., Indian Bank, Kodambakkam Branch, Chennai, a letter dated 16.03.2019, was addressed by the Second Respondent that the account of the Petitioner with the First Respondent had to be closed and the amount in that account has to be remitted to the account of the Petitioner maintained with the Second Respondent. After receipt of that letter, the First Respondent by letter dated 16.03.2019 informed the Petitioner that acting on the same, it was decided to close the accounts of the Petitioner with the First Respondent and transfer the amounts to the Second Respondent. However, it was also mentioned that based on the undertaking given by M/s. Arignar Anna Institute of Science and Technology, belonging to the Petitioner, the First Respondent had sanctioned salary loans to the staff of the Petitioner and the balance outstanding in those 18 loan accounts as on that date was Rs.25,83,000/- and after deducting the said amount for closing those loan accounts, the balance amount would be transferred to the Current Account of the Petitioner with the Second Respondent.

3. At that stage, the Petitioner without impleading the Second Respondent had filed this Writ Petition challenging the aforesaid letter dated 16.03.2019 sent by the First Respondent to the Petitioner. At the time of admission, on 18.03.2019, this Court passed an interim order directing the First Respondent not to withdraw Rs. 24,00,000/- from the account of the Petitioner



and that for the balance amount, the same can be operated by the Petitioner. In pursuance of the order dated 20.03.2019 passed by this Court, the Petitioner filed W.M.P.No. 17033 of 2019 to implead the Second Respondent, which was ordered on 20.06.2019.

WEB COPY

4. In order to buttress the claim that the Petitioner could not have opened accounts with the First Respondent, the Second Respondent has relied upon clause 10 of the Term Loan Agreement dated 05.05.2012 entered into between the First Respondent and the Petitioner which reads as follows:-

"The borrower to take prior approval from the bank for opening any account with any other bank/other branch of said bank"

In support of this contention, reliance is also placed by the Second Respondent on the Circular DBOD No. Leg.BC.22/09.07.006/2013-14, dated 01.07.2013 issued by the Reserve Bank of India. It is complained by the Second Respondent that under the guise of the interim order dated 18.03.2019 passed by this Court, the Petitioner has immediately withdrawn all the funds from the accounts operated with the First Respondent, except the sum of Rs. 24,00,000/- which was directed to be retained in that order.

5. Having regard to the aforesaid submissions made, this Court required the First Respondent to close all the accounts operated by the Petitioner with the First Respondent and invest the amounts lying in those accounts in a Fixed Deposit in the name of the Registrar General of this Court in the Madras High Court Branch of the First Respondent. In compliance of that order, the First Respondent has remitted a sum of Rs.56,627/- in a Fixed Deposit bearing No. 0485474 and a sum of Rs.24,90,409/- in a Fixed Deposit bearing No. 0485711 in the name of Registrar General of this Court and the originals have been handed over to the Registry for safe custody. It is also informed by the First Respondent that a sum of Rs.3,41,40,000/- was received from the Third Respondent in the Current Account No. 6594023039 of the Petitioner with the First Respondent and same has been transferred on 09.10.2019 vide UTR No. IDBI52019100919225366 through RTGS to the Second Respondent, who has acknowledged its receipt.

6. That apart, during the hearing on 25.10.2019, this Court has recorded the following submissions made on behalf of the Third Respondent:-

"2. Learned Government Advocate appearing for the Third Respondent, on instructions, states that changes have been made in the records of the Third Respondent



WEB COPY

to make payment of the scholarship amount due in respect of the students in the colleges of the Petitioner to the designated account of the Petitioner with the Second Respondent, instead of the First Respondent."

7. It has also been brought to the notice of this Court, that final order has also been passed in O.A. No. 496 of 2016 by the Debts Recovery Tribunal - II, Chennai for the recovery of the dues by the Petitioner to the Second Respondent and that necessary proceedings for executing the same have been taken.

8. In view of the aforesaid subsequent developments that have been taken place after the filing of this Writ Petition, it would suffice to observe as follows:-

- (a) that the aforesaid sums of Rs. 56,627/- and Rs. 24,90,409/- shall continue to remain in Fixed Deposit with the Madras High Court Branch of the First Respondent till the 18 loan accounts granted to the staff of the Petitioner and repayment of which has been guaranteed by the Petitioner are fully discharged;
- (b) that after the aforesaid 18 loan accounts of the staff of the Petitioner are closed, it would be open to the Second Respondent to approach this Court for encashing those fixed deposits for appropriating the proceeds towards the dues for the debt owed by the Petitioner to the Second Respondent; and
- (c) that if the debts owed by the Petitioner to the First and Second Respondents are discharged in the meanwhile, it would be then open to the Petitioner to make application to this Court for payment from those fixed deposits.

9. The Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar



To

1. The Assistant General Manager,
Indian bank,
Kodambakkam Branch
4/12, Trustpuram III Cross,
Kodambakkam, Chennai - 600 024.
2. The Assistant General Manager,
Central Bank of India,
Mid Corporate Branch,
48/49, Montieth Road, Egmore,
Chennai - 008.
3. The Principal Secretary to the Government of Tamil Nadu,
Ministry of Adi-Dravidar and Tribal
Welfare Department, Adi-Dravidar and
Tribal Welfare Directorate, Chepauk,
Triplicane,
Chennai-600 005.

Copy to

The Registrar General,
Madras High Court,
Chennai - 600 104.

+1 cc to The Government Pleader Sr.No. 95561

AKM/08.01.2020/5P-5C /

W.P. No. 8113 of 2019