

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.05.2019

CORAM :

THE HON'BLE MR. JUSTICE RMT. TEEKAA RAMAN  
and  
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.A. No. 1737 of 2019  
and  
C.M.P. No. 11693 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 - 600 087. .... Appellant/Second Respondent

-vs-

1. M/s. Maximum ARC Limited  
A company incorporated under Companies Act, 2013,  
Having registered and corporate office at  
59-A, 18/1 5A, 3rd floor  
Sri plaza, teachers colony  
Patamata, Vijayawada - 520 008,  
Rep by its Vice Chancellor  
Shri. K. Harikrishna .... First Respondent/Petitioner
2. Anna University, Chennai  
Rep by its Vice Chancellor,  
Kotturpuram,  
Chennai - 600 025. .... Second Respondent/First Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent  
against the order of the learned Judge, Hon'ble Mr. Justice S.  
Vaidyanathan, made in W.M.P. No.13434 of 2019 in WP. No. 13326  
of 2019 on 10.05.2019.

Prayer in W.M.P.No.13434 of 2019:-

Petition praying that in the circumstance stated therein and  
in the affidavit filed therewith the High Court will be pleased  
to pass order of interim injunction restraining the 2nd  
respondent from admitting students from this academic year  
2019-20 pending W.P.No.13326 of 2019.

Prayer in W.P.No.13326 of 2019:-

Petition praying to issue a writ of Mandamus directing the 1st respondent to disaffiliate the colleges of the 2nd respondent and to prevent and restrain admission of students in the 2nd respondent colleges from this academic year 2019-20.

For Appellant : Mr. P. Wilson, Senior Counsel  
for M/s. Pushpakaran

For Respondents : Mr. V. Karthick, Senior Counsel  
for M/s. Nithyaesh & Vaibhav (for R1)

Mr. M. Vijayakumar (for R2)

### J U D G M E N T

The intra Court appeal arises out of the order dated 10.05.2019 in W.M.P. No. 13434 of 2019 in W.P. No. 13326 of 2019 passed by the Learned Judge of this Court. The parties are hereinafter referred to as per their description in the Writ Petition for the sake of convenience.

2. By consent of both sides, the Writ Appeal is taken up for disposal at the admission stage itself.

3. The Second Respondent, which is an Educational Trust running a Medical College and an Engineering College, had availed credit facilities from Central Bank of India and Bank of India and had mortgaged its properties as security for that borrowing. Bank of India had assigned the debt owed to it by the Second Respondent to the Petitioner, viz., Maximus Arc Limited, invoking Section 5 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002. Contending that the Second Respondent had defaulted in paying the dues under the credit facilities availed from Bank of India, which has been assigned to the Petitioner and it has become inevitable to enforce such securities for realizing the dues, W.P. No. 13326 of 2019 was filed by the Petitioner seeking direction to the First Respondent to disaffiliate the Colleges of the First Respondent and prevent and restrain admission of students in those Colleges from the academic year 2019-2020.

4. When the matter came up before the vacation sitting of this Court on 10.05.2019, the Learned Judge passed an order of interim injunction restraining the Second Respondent from admitting students from the academic year 2019-2020 onwards and further directed the First Respondent to disaffiliate the

Colleges of the Second Respondent and posted the Writ Petition on 07.06.2019 for filing counter by the Respondents. Aggrieved thereby, the Second Respondent has preferred this appeal.

5. We have heard Mr. P. Wilson, Learned Senior Counsel assisted by Mr. Pushpakaran, Learned Counsel appearing for the Second Respondent, Mr. V. Karthick, Learned Senior Counsel assisted by Mr. Nithyaesh, Learned Counsel appearing for the Petitioner and Mr. M. Vijayakumar, Learned Counsel appearing for the First Respondent and perused the materials placed on record, apart from the pleadings of the parties.

6. The Learned Senior Counsel appearing for the Second Respondent strenuously urged that the Petitioner, who is merely an assignee of the debt from Bank of India, cannot seek any order for preventing the Second Respondent from admitting students in the Colleges run by it. He further elaborated that the properties given as mortgage security for the borrowing by the Second Respondent from the Bank of India does not include the Engineering College. However, the Learned Senior Counsel appearing for the Petitioner vehemently disputes the said contention and claims that the Engineering College forms part of the mortgage security and that the Petitioner is fully justified in seeking the relief which has been granted by the Writ Court so as to realize the debt due by enforcing the mortgage security in a smooth manner without any hindrance from the Second Respondent under the pretext that the interests of the students would be affected during the forthcoming academic year.

7. On a perusal of the order impugned in this appeal, it is seen that there has not been any discussion or finding on the aforesaid rival contentions which has material bearing to decide whether the Petitioner is entitled to the relief that had been sought. That apart, the aforesaid interim order passed has the effect of granting the relief sought in the Writ Petition itself without giving adequate opportunity to the Second Respondent to file its Counter Affidavit and place its contentions. In that view of the matter, we set aside the order dated 10.05.2019 in W.M.P.No. 13434 of 2019 in W.P. No. 13326 of 2019 and remit the matter to the Writ Court for fresh decision after affording opportunity to all parties to place their respective contentions. Accordingly, the Writ Appeal is allowed to the aforesaid extent. Consequently, the connected Miscellaneous Petitions is closed. The parties shall bear the respective costs.

Sd/-  
Assistant Registrar(V.O)

//True Copy//  
Sub Assistant Registrar

vjt/mbi/nvsri

To

The Vice Chancellor,  
Anna University Chennai  
Kotturpuram,  
Chennai - 600 025.

+1 cc to Mr.S.Pushpakaran, Advocate, Sr.No. 44143

+1 cc to Mr.M.Vijayakumar, Advocate, Sr.No. 44146

W.A. No. 1737 of 2019

CSL/28.05.2019



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