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C.R.P.(MD)No.1080 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.1080 of 2024 and
C.M.P.(MD)Nos.5996 & 5998 of 2024

St.Alphonsa Trust,
Rep. by Trustee,
Sr.A.Selin Mary,
Having office at DMI Foundations,
2nd Lane, St.Patrick's Church Road,
St.Thomas Mount,
Chennai – 600 016.

... Revision Petitioner/Petitioner/
Respondent / Respondent /
Judgment Debtor

Vs.

Michael Builders & Developers Pvt. Ltd.,
Rep. by its Managing Director,
Praveen T.T.,
1/2/182, Kanathukonam,
Cherryakolla, Cheruvalloor Post,
Kanyakumari District – 629 152.

... Respondent /Respondent /
Petitioner / Petitioner /
Decree holder

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records and to set aside the order passed in E.A.No.5 of 2024 in E.P.No.13 of 2023 in O.P.No.934 of 2017



in A.F.No.66 of 2018 on the file of the Principal District Judge, Kanyakumari District at Nagercoil, dated 13.03.2024 and allow this civil revision petition.

For Petitioner : Mr.B.Saravanan,
Senior counsel,
for Mr.G.Anto Prince.

For Respondent : Mr.H.Arumugam &
Mr.B.Mohan

ORDER

Heard the learned Senior counsel appearing for the revision petitioner and the learned counsel appearing for the decree holder.

2. The respondent obtained an arbitral award against the revision petitioner on 27.06.2018. It was put to execution by filing E.P.No.13 of 2023. The petition-mentioned property was brought under attachment. To raise the same, the revision petitioner filed E.A.No.5 of 2024. The said EA was dismissed on 13.03.2024. Challenging the same, this civil revision petition came to be filed.



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3. The petitioner is an educational institution. They had already obtained approval from the Medical Council of India for starting MBBS course. The learned Senior counsel pointed out that on account of the continuance of the attachment order, the very recognition has come under peril. Taking note of the said submission, an interim order of stay was granted by putting the petitioner on terms. During the pendency of the civil revision petition, a sum of Rs.8,09,95,000/- had been given directly to the respondent. According to the petitioner, this has more than satisfied by the award. This is contested by the learned counsel for the respondent. The respondent's counsel has filed a memo of calculation stating that a further sum of Rs.4,11,86,236/- is due. Since it is apparent on the face of record that substantial portion of the award has already been satisfied and since the petitioner had already admitted as many as 100 students for first year MBBS course, it may not be in public interest, if the attachment order is allowed to continue.

4. The petitioner undertakes before this Court to provide bank guarantee for a sum of Rs.2 Crores. Without prejudice to their contention that the award has already been satisfied, such a bank guarantee shall be



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furnished by the revision petitioner before the Court below within a period of four weeks from the date of receipt of a copy of this order.

5. I am satisfied that the respondent does not run any risk because of the order now passed. In this view of the matter, the impugned order is set aside and the civil revision petition is allowed. Though attachment has been set aside, enquiry has to be conducted in the E.P. if the award has been satisfied. Both the parties shall file their respective calculation memos before the Court below. The Court below is directed to conduct enquiry into the matter and pass appropriate order in accordance with law within a period of three months from the date of receipt of a copy of this order. The petitioner had earlier furnished property security. The petitioner is directed to keep it alive since the dispute between the parties is yet to be fully resolved. No costs. Consequently, connected miscellaneous petitions are closed.

15.10.2024

Index : yes/No
Internet: Yes/No
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G.R.SWAMINATHAN,J.

PMU

To

1. The Principal District Judge,
Kanyakumari District at Nagercoil.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

C.R.P.(MD).No.1080 of 2024

15.10.2024