

from dispossessing him from the suit premises; otherwise than in due process of law.

4] When the Notice of Motion was filed on 17/07/2018, the trial Court has observed that “Perused the record. Particularly in view of the FIR lodged by Plaintiff dated 09/07/2018, no case is made out to grant any ad-interim relief. From the material on record, it is revealed that the license for running bear bar and restaurant is in the name of Defendant No.1, same is already canceled. Furthermore, it appears that Plaintiff is already dispossessed from the suit property. Therefore, it is necessary to hear Defendant Nos.1 to 3 before granting any relief. Hence, issue notice and w/sum to Defendant Nos.1 to 3 through bailiff”.

5] After the service was made on Defendant Nos.1 to 3, the Appellant herein has again pressed for the same ad-interim relief. The trial Court has however by the impugned order rejected the same holding that, “it is evident that the earlier Presiding Officer had already observed that no case was made out by Plaintiff for granting ad-interim relief. It was also observed by the then Presiding Officer that license of running beer bar and restaurant standing in the name of Defendant No.1 was already cancelled and Plaintiff was also

dispossessed from the suit property”.

6] In the light of these observations made by the earlier Presiding Officer in its order dated 17/07/2018, the trial Court was not inclined to grant ad-interim relief against Defendant No.3 merely because Defendant No.3 has refused the service of Notice as per the bailiff report and it was held that the Notice of Motion has to be heard in its entirety and accordingly, ad-interim relief was refused.

7] While challenging this order of the trial Court, the submission of learned counsel for the Appellant is that, earlier there was no such express rejection of ad-interim relief. There was also no basis for recording of the finding that the Plaintiff is already dispossessed from the suit property. By pointing out to the First Information Report (FIR) dated 09/07/2018, it is submitted that the said FIR is only for the offence punishable under Section 454, 457 and 380 of Indian Penal Code. Hence, according to learned counsel for the Appellant, the trial Court has committed an error in rejecting his request for ad-interim relief.

8] Per contra, learned counsel for the Respondents has submitted that, as per the own case of the Appellant, he is a licensee

and in such situation, licensee cannot file suit simplicitor for injunction and that in a Civil Court. According to him, the trial Court had no jurisdiction to entertain the suit and in addition to that when the earlier order dated 17/07/2018 was not challenged by the Appellant, he was estopped from challenging the present order also.

9] There is much substance in the submission advanced by learned counsel for the Respondents; especially when the Appellant being a licensee, claiming such relief of protection of his possession in the Civil Court, when as per admitted facts on record, his license is already terminated by requisite notice. Apart from that, the trial Court has, in its earlier order dated 17/07/2018 clearly recorded that, no case is made out to grant any ad-interim relief. If the Appellant was aggrieved by the said order, he should have approached this Court; but instead of doing so, when again he has sought the same relief, then the trial Court was justified in holding that merely because Defendant No.3 has not appeared, the facts do not change from the record. Accordingly, the trial Court has rightly refused to grant the ad-interim relief and kept the matter for hearing of Notice of Motion in its entirety.

10] In this discretionary order passed by the trial Court, no interference is warranted at the hands of the Appellate Court.

11] Therefore, the Appeal being without merits stands dismissed.

12] In view of dismissal of the Appeal, nothing survives in the Civil Application, hence stands disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]