

3] The plaintiff has instituted a suit for specific performance of contract, allegedly contained in the declaration cum indemnity dated 17th January, 2008, for sale of the suit premises.

4] By this Notice of Motion, the plaintiff seeks relief of appointment of Court Receiver, injuncting the defendants from alienating, parting with the possession of the suit premises or otherwise creating third party rights therein and a direction for payment of compensation of Rs.3,40,14,000/- or such other sum as may be determined by this Court alongwith interest.

5] This Court, by an order dated 2nd December, 2010, was persuaded to grant ad-interim relief in terms of prayer clause (b), till the hearing and final disposal of the Motion.

6] Today, by a separate order of this Court, issues have been framed including the issue as regards entitlement of the plaintiff for compensation.

7] In the backdrop of the nature of controversy, the reasons which weighed with the Court while passing ad-interim relief in terms of prayer clause (b), till hearing and final disposal of the Motion, still hold the ground as regards the prayer for interim relief. In the event ad-interim relief granted by this Court, by order dated 2nd December, 2010 is not continued till final disposal of the suit, there is a strong possibility that the suit itself may be frustrated. Hence, the ad-interim on relief granted in terms of prayer clause(b), by this Court on 2nd December, 2010 is required to be continued

as an interim relief till the disposal of the suit as against the defendant Nos 1 & 2.

8] As regards the rest of the prayers in the Notice of Motion, the learned counsel for the plaintiff submitted that the plaintiff does not want to press prayer for appointment of Court Receiver [prayer clause (a)], at this stage of the proceeding, provided the defendant Nos. 1 & 2 be directed to seek permission of the Court before letting out the suit premises, and the prayer clause (c), as regards compensation, may be adjudicated at the time of final disposal of the suit.

9] As the suit has been instituted in the year 2010, at this stage, there is no propriety in considering the prayer for appointment of Court Receiver. In view of the provisions contained in Section 21 of the Specific Relief Act, the plaintiff is entitled to claim compensation in addition to the decree for specific performance. The claim of compensation can, thus, be legitimately decided at the time of final disposal of the suit. However, while considering aspect of the compensation, which the plaintiff may be entitled to, in the event, the Court comes to the conclusion that justice of the case requires that the plaintiff should be awarded compensation in addition to the decree for specific performance, the facts as regards the income from the suit premises may facilitate the Court in determining the amount of compensation.

10] Thus, in the circumstances of the case an order directing defendant Nos. 1 and 2 to disclose on affidavit as to whether the suit premises has been let out and, if yes, what is the monthly rent, licence fee and/or premium, which the defendant Nos. 1 & 2 received therefrom, would meet the ends of justice.

11] Hence, the following order.

Order

i] The Notice of Motion No.2586 of 2010 stands disposed of by directing that the ad-interim order passed by this Court, dated 2nd December, 2010, is made absolute till the disposal of the suit qua the defendant Nos. 1 & 2.

ii] The defendant Nos 1 & 2 shall disclose on affidavit as to whether the suit premises has been let out by way of lease or on leave and licence basis and, if yes, the rent, licence fee or premium at which the suit premises has been so let out, within a period of four weeks.

iii] The Notice of Motion stands disposed of.

[N. J. JAMADAR, J.]