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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3853 OF 2025
IN
APPEAL FROM ORDER NO. 695 OF 2024**

Ambrosia Restaurants Pvt. Ltd. ... Applicant/Appellant

Vs.

Sunita Dileep Nevatia and Another ... Respondents

**WITH
INTERIM APPLICATION (ST) NO. 9836 OF 2025
IN
APPEAL FROM ORDER NO. 695 OF 2024**

Sunita Dileep Nevatia and Another ... Applicants

Vs.

Ambrosia Restaurants Pvt. Ltd. ... Respondent

Mr. Rajiv Narula a/w. Mr. Tarang Jagtiani i/b. M/s. Jhangiani, Narula
and Associates for the Applicant/Appellant.

Mr. Dileep Nevatia, Respondent No. 2 - present in person.

CORAM : GAURI GODSE, J.

DATE : 28th APRIL 2025

ORDER :

Interim Application No. 3853 of 2025

1. This application is for extension of ad-interim relief granted by this court and in the alternative, the applicant has prayed for an interim relief restraining the respondents from inducting any third party in the suit premises.

2. The appeal is admitted on 24th February 2025 and the impugned order of returning the plaint was stayed. After the order was dictated, learned counsel for the appellant pointed out that there was an ad-interim relief operating in favour of the plaintiff during the pendency of the suit. However, since the earlier order was passed after hearing respondent no. 2 in person, the application was directed to be listed on 26th February 2025. On 26th February 2025, the ad-interim relief was not extended since the respondents were not present. This court recorded that the earlier order cannot be modified without hearing both the parties. Hence, the appellant was granted liberty to file appropriate application. The appellant has therefore filed the present Interim Application No. 3853 of 2025.

3. On 19th March 2025 when the Interim Application No. 3853 of 2025 was listed, respondent no. 2 appeared in person for himself and on behalf of respondent no.1. On that date he submitted that he has already created third party rights and he shall file affidavit in reply to the application. Hence, the interim application was directed to be listed on 23rd April 2025. Since the appeal did not reach on 23rd April 2025, it was mentioned out of turn and the same was directed to be listed today.

4. Learned counsel for the applicant submits that on 15th November 2019 ad-interim relief was granted, restraining respondents from inducting any third party in the suit property. He submits that on 20th December 2019 Notice of Motion No. 1445 of 2019 for intervention was dismissed. While dismissing the notice of motion, the ad-interim order granted on 15th November 2019 was continued till further orders. He thus submits that the ad-interim order continued during the pendency of the suit till notice of Motion No. 2399 of 2024 filed by the respondent under Order VII Rule 11 of the Civil Procedure Code, 1908 was decided on 31st August 2024 which is impugned in the appeal.

5. By the impugned order the plaint is returned for presenting it to the Court of Small Causes. In view of the order returning the plaint the City Civil Court disposed of the notice of motion for interim relief as infructuous. However, the ad-interim protection was continued for a period of six weeks.

6. This court on 11th October 2024 issued notice and extended ad-interim protection till 12th December 2024. On 12th December 2024, respondent no. 2 appeared in person and the matter was stood over to 14th January 2025. However, ad-interim protection was not extended. Thus in view of the aforesaid dates and event, the ad-interim protection granted earlier was not continued further.

7. The respondents have filed affidavit in reply and in paragraph 5 it is stated that after 12th December 2024 the respondents have given the suit property on leave and licence basis by registered agreement and the respondents shall rely upon the copy as and when produced. However, respondent no. 2 who appears in person submits that he does not have the copy of the agreement today and he shall produce it on the next date.

8. To enable the respondents to place on record copy of the registered agreement of leave and licence, list the application on 10th June 2025.

9. In view of the aforesaid facts and circumstances the status of the suit property, if changed, and if further third party rights are created, the same is likely to cause prejudice to the rights and contentions of the appellant and the same would result into multiplicity of proceedings. Hence, the applicant is entitled for ad-interim protection.

10. Hence, till further orders no further third party rights shall be created by the respondents. In the event any third party rights are already created by the respondents, no further third party rights will be created.

11. Respondents shall supply copy of the agreement already executed by them to the learned Advocate for the applicant within two weeks from today.

12. Interim Application (St) No. 12824 of 2025 and Interim Application No. 9836 of 2025 also to be listed on the next date i.e. 10th June 2025.

[GAURI GODSE, J.]