ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 325 of 2014

DATE	ORDER WITH SIGNATURE OF JUDGE

Plaintiff:	**Venus Pakistan (Pvt.) Limited Through Mr. Khawaja Shamsul Islam, Advocate.**
Defendant No.1:	**Pakistan Defence Officers Housing Authority Through Mr. Asim Iqbal, Advocate.**

For hearing of CMA No.2544/2014.

Dates of Hearing:	**30.11.2018 & 14.12.2018.**
Date of Order:	**24.12.2018**

O R D E R

Muhammad Junaid Ghaffar J. This is a Suit for Declaration, Injunction, Possession and Damages. This Order will decide CMA No.2544/2014, which is an Injunction Application under Order 39 Rule 1 & 2 read with Section 94 CPC.

2. The precise facts, as stated, are that on 09.03.2012 a License Agreement was entered into between Plaintiff and Defendant No.1 ("**DHA**") in respect of all building, structures and construction on plot of land bearing No.DC-5 situated in Phase-VIII of the Defence Housing Authority and measuring 15914 (Approx) square yards and bounded of (Hotel & Villa/Bungalow with its dimension more fully described in plan marked Schedule "A", along with another plot of land as described in the Agreement ("**Carlton Hotel**"). The said agreement is valid till 31.12.2018. It is the case of the Plaintiff that on the basis of License Agreement, possession of the entire premises as mentioned in the Agreement was officially handed over; whereas, the Agreement further provides that an extension of 10 years can be granted with mutual consent. It is

further stated that the plaintiff was forced to run the Hotel despite the fact that the first floor was not in working condition due to a fire broke out prior to the signing of the agreement and handing over of possession. The cause of action for filing this Suit according to the Plaintiff is that on 23.02.2014 in an uncivilized manner, the DHA with the assistance of its duly armed guards took over the possession unlawfully and dispossessed the Plaintiff from the Hotel, hence instant Suit.

3. Learned Counsel for the Plaintiff has contended that as per the terms of the License Agreement, the Plaintiff paid the upfront money as well as security deposit and was handed over possession of the entire premises as described in the Agreement and the Schedule attached thereto. He has contended that though the Agreement is termed as a License Agreement; but in pith and substance, it is and must be read as a Rent Agreement, and therefore, the Plaintiff could not have been dispossessed except in accordance with law. Learned Counsel has referred to various clauses of the Agreement and has contended that though the possession was handed over; but there were certain shortcomings in the building like faulty air-conditioning system and non-operation of various other equipment, which required repair and maintenance. He has referred to Clause 6.1 of the Agreement, which provides that the Licensee shall provide the total building equipment's, furniture etc. in workable condition as per Inventory jointly signed by the parties. Learned Counsel has then referred Clause 8.4, 9, 10 & 11 and has contended that the Licensee was empowered to run and manage and so also to make alterations and other necessary jobs required thereof. Per learned Counsel the dispute arose between Plaintiff and DHA in respect of non-operation of the air-conditioning system and other equipment and for this the Plaintiff after making regular payments of the license fee till October, 2012, withheld further payments and approached DHA to resolve the issue. According to him a joint Board meeting was held on 30.3.2012, wherein certain terms of reference were settled; whereas, the expenditure incurred by the Plaintiff was admitted, but DHA refused to recognize this and also failed to install new chiller / air-conditioning system; hence the dispossession of plaintiff was not legal and justified. Learned

Counsel has referred to various documents on record and has contended that numerous equipment were non-operational; whereas, DHA did not finally decided the dispute despite several meetings. He has further contended that on 17.02.2014 impugned Notice was issued through which the balance and outstanding License fee was demanded, which was to be paid by 28.02.2014 and before such date, Plaintiff was dispossessed on 23.02.2014 notwithstanding the fact that Pay Orders of such amount were given to DHA well before 28.2.2014. According to him instant Suit was filed and on 27.02.2014, and Nazir was appointed to inspect the property; whereas, the Plaintiff was directed to furnish Bank Guarantee of the amount of License Fee being claimed by DHA, and till the next date on furnishing of such Bank Guarantee, DHA was restrained from creating any third party interest in the Subject Property. Per learned Counsel Bank Guarantee was furnished immediately; whereas, Pay Orders were also given to DHA earlier as above, but despite this, third party interest has been created and contempt has been committed of Order dated 27.02.2014. According to him, the Plaintiff never defaulted and only withheld payments for the dispute regarding non-operational equipment, and therefore, the Plaintiff could not have been dispossessed, hence a mandatory injunction be passed by putting the Plaintiff back in possession, whereas, the time which has been lapsed and consumed in Court Proceedings, cannot be accounted to the Plaintiff, therefore, while giving back the possession, such period be excluded from the license period as observed by this Court in its Order dated 07.06.2017. He has next contended that various equipment belonging to the Plaintiff have been taken over unlawfully and illegally by DHA, and the same may also be ordered to be returned to the Plaintiff. He has also referred to Order dated 10.02.2017, whereby, the application of DHA for rejection of plaint under Order VII Rule 11 CPC was dismissed by this Court and has contended that all such objections raised on behalf of DHA regarding entitlement of the Plaintiff as a Licensee have already been repelled by this Court. In support of his contention he has relied upon the cases reported as ***Agha Saifuddin Khan Vs. Pak Suzuki Motors Company Limited and another*** **(1997 CLC 302)**, ***Mst. Salma Jawaid and 3 others Vs. S.M. Arshad and 7 others*** **(PLD 1983 Karachi 303)**, ***Roomi Enterprises (Pvt.) Ltd. Vs. Stafford***

Miller Ltd. and others **(2005 CLD 1805)**, ***Shahid Mahmood Vs. Karachi Electric Supply Corporation Ltd.*** **(1997 CLC 1936)** & ***Arif Majeed Malik & others Vs. Board of Governors Karachi Grammar School*** **(SBLR 2004 Sindh 333).**

4. On the other hand, learned Counsel for DHA has contended that the Plaintiff continuously defaulted in payment of the License Fee since October, 2012 for which several Reminders were issued, and therefore, the action taken on 23.02.2014 was as per the License Agreement, which provides a termination clause i.e. Clause-20. Per learned Counsel the Plaintiff was even provided a much longer period than as provided in the Agreement for making payments of the License Fee; whereas, the impugned notice was just a Reminder and it is the case of DHA that Plaintiff had abandoned the property and left the same without a proper handing over, therefore, DHA had no option but to take over the property in question. Per learned Counsel the ingress and egress of the property in question was always with DHA and was not an exclusive possession of the Plaintiff to that extent. According to the learned Counsel, the Plaintiff was earlier acting as a service provider of another Licensee and in fact through fresh Agreement again assignment was of a service provider and not a Licensee with exclusive possession as contended. Learned Counsel has further contended that when the Suit was filed, the Plaintiff was not in possession, and therefore, the application for restoration of possession must be dismissed as Plaintiff has also claimed compensation and damages, which in the given facts is the appropriate and maximum relief, which could be granted. Learned Counsel has then referred to the Statement of License Fee and has contended that the default has never been disputed, except the ground that some equipment was not working; whereas, the Agreement does not provide that any License Fee could be withheld on this ground. Per learned Counsel clear and intentional breach of the Agreement has been committed, therefore, the Plaintiff has no case. He has also contended that immediately, as per the Agreement, an application for referring the matter to Arbitration was filed, and therefore, in view of the Arbitration clause, the application otherwise does not merits consideration. He has further contended that the Plaintiff in fact never made any attempt

to run the Hotel properly and was only interested in arranging wedding functions in the Banquet Hall and the open area and was making money out of these functions. He has also referred to various Intervenors Applications as well as their joining in the Suit to substantiate his claim that Plaintiff was a continuous defaulter of various other parties, who came before the Court seeking repossession of their equipment as well as recovery of money. In support of his contention he has relied upon the cases reported as ***Messrs Sign Source Vs. Messrs Road Trip Advertisers and another*** **(2005 CLC 1982)**, ***Khalid & Company through Proprietor Vs. Cantonment Board, Malir through President Commander Station Headquarter, Malir Cantonment and Cantonment Executive Officer, Karachi*** **(PLD 2002 Karachi 502),** ***Daewoo Pakistan Motorway Services Limited through Chief Executive Vs. Sun Shine Service (Regd.) through Chief Executive Officer and another)*** **(2009 CLC 406)**, ***M.A. Naser Vs. Chairman, Pakistan Eastern Railway and others*** **(PLD 1966 Dacca 69)**, ***Malik Muhammad Jawaid Vs. Province of Sindh and others*** **(2008 CLC 348)**, ***Messrs Ad-Mass Advertising (SMC-PVT) Limited through Chief Executive Vs. Civil Aviation Authority through General Manager*** **(2010 CLC 625)**, ***Rehmatullah Khan and others Vs. Government of Pakistan through Secretary, Petroleum and Natural Resources Division, Islamabad and others*** **(2003 SCMR 50)**, ***M.A. Naser Vs. Chairman, Pakistan Eastern Railway and others*** **(PLD 1965 Dacca 339),** ***Messrs Zaidi's Entrprises and others Vs. Civil Aviation Authority and others*** **(PLD 1999 Karachi 181),** ***Messrs Noorani Traders, Karachi through Managing Partner Vs. Pakistan Civil Aviation Authority through Airport Manager, Karachi*** **(PLD 2002 Karachi 83)**, ***M.A. Naser Vs. Chairman Pakistan Easter Railways and others*** **(PLD 1965 Supreme Court 83).**

5. I have heard both the learned Counsel and perused the record. The precise facts have already been stated hereinabove and it is the case of the Plaintiff that on 09.03.2012 a License Agreement was entered into with DHA in respect of complete management of premises which is known as "Carlton Hotel" as detailed in the Agreement, along with a Villa / Bungalow. It is the case of the Plaintiff that at the time of handing over the Hotel, an inventory was prepared and a number of items were non-

operational, of which DHA had knowledge and was also apprised of; but despite this, the said equipment was never made functional and or replaced, and this was the bone of dispute between the parties. It appears that due to this, the regular payment of License Fee, after October, 2012, was stopped (though in para 12 of the plaint it has been stated that it was paid till January 2013, but this is not borne out from the Statement of Account filed by the Plaintiff pg:225). The License Agreement provided a schedule of payment of monthly License Fee as per Clause 2 which reads as under:-

"2. **Monthly License Fee**

2.1 The License Fee payable by the **Licensee** to the **Licensor** for the License period as per following schedule:-

Sr	Period			Licensee Fee (Rs.P.M.)	Licensee Fee (Rs. P. Annum)
1	09-Mar-12	TO	31-Dec-12	4,694,000	46,940,000
2	1-Jan-13	TO	31-Dec-13	5,069,520	60,834,240
3	1-Jan-14	TO	31-Dec-14	5,475,082	65,700,979
4	1-Jan-15	TO	31-Dec-15	5,913,088	70,957,058
5	1-Jan-16	TO	31-Dec-16	6,386,135	76.633,622
6	1-Jan-17	TO	31-Dec-17	6,897,026	82,764,312
7	1-Jan-18	TO	31-Dec-18	7,448,788	89,385,457

The license agreement further provided a termination clause which reads as under:-

"20 **Termination**

20.1 In the event of Licensee's default in any breach of the License Agreement/violation of any term or condition of this License Agreement, the Licensor will issue a written notice giving 60 days for rectification of the default.

20.2 In case the Licensee fails to pay the License Fee and other charges, if any, to the Licensor for consecutive Three months, the Licensor will issue a show cause notices on monthly basis to the Licensee and despite this if license fee is not paid, the Licensor shall take over the possession of the Demised Premises without further notice."

6. Learned Counsel for the Plaintiff has vehemently argued that after handing over of the possession of the property in question the same was being run properly and in terms of the agreement; however, the air conditioning system as well as other equipment which were handed over to the Plaintiff were non-functional since its handing over, therefore, after making payment of license fee from March, 2012 to October 2012 no further payments were made and DHA was approached to either adjust the license fee against the repair cost or in the alternative the same should be repaired and or replaced by DHA. Plaintiffs further case is that an amount of Rs.20,000,000/- was paid as upfront money, whereas, an amount of Rs.28,164,006/- was paid as security, returnable on completion of the Agreement. It is not in dispute that insofar as the monthly license fee is concerned, the same was withheld from October, 2012 till February 2014 and this amount was Rs.84,157,382/ as mentioned in the impugned notice dated 17.2.2014. It is also a matter of fact that DHA issued its first notice on 02.04.2013 regarding payment of outstanding dues in terms of Clause 20.2 of the license agreement as above. The deadline for payment was 10.04.2013 but apparently it was not paid. Thereafter, on 10.01.2014 a similar notice was issued and Plaintiff was given a further time up to 20.01.2014 for making payment of outstanding dues of Rs. 77,762,983/-. To this effect there appears to be no dispute that amount was outstanding and was not paid despite these two reminders, whereas, the defence of the plaintiff is that even by that time the equipment was not made functional. Thereafter, another notice, which according to the Plaintiff is the impugned notice was issued on 17.02.2014 and Plaintiff was asked to pay an amount of Rs. 84,157,382/- by 28.02.2014. The Plaintiff's case is that during this period DHA was approached for accepting payment of the said amount; but was not accepted, and therefore, the action of DHA is illegal. After perusal of the record, and on the basis of observations hereinafter in this order, I am not inclined to accept this argument on the ground that even if this notice is ignored, earlier two notices as noted hereinabove, were also issued and there is no denial to this effect. These notices were issued in terms of Clause 20.2 of the Agreement, which provides that in case the Licensee fails to pay the License Fee and other charges, if any, to the Licensor for three consecutive months, the

Licensor will issue a show cause notice on monthly basis to the licensee and despite this if license fee is not paid, the Licensor shall take over the possession of the Demised Premises without further notice. It is a matter of fact that first notice was issued on 02.04.2013 and even on the basis of this notice the licensor i.e. DHA could have taken over the possession as per Clause 20.2 as it is not in dispute that default in payment of license fee had occurred for three consecutive months. The only stance which the Plaintiff has taken is to the effect that this license fee was withheld on the ground that various equipment was non-functional and required repairs, maintenance and or replacement by DHA. However, this does not appear to be an attractive ground for the present purposes, as if that was the case, then the Plaintiff ought to have approached this Court at the time when the very first notice was issued. This was not done and again a second notice was issued in January, 2014; but even at that point of time, the Plaintiff did not approached this Court. It is only after the Plaintiff has been dispossessed after invocation of the termination clause that this Court has been approached and a mandatory injunction is being sought for handing over of the possession back to the Plaintiff. The above conduct of the Plaintiff depicts that the Plaintiff has not come before the Court with clean hands and it is settled law that the injunctive relief is a relief in equity whereas, the party seeking such relief must come before the Court with clean hands. The default is there and is very much apparent from the record to which no substantial material has been placed to controvert the same and the only stance is, that it was withheld for non-operational equipment. This does not appear to be a valid and justified ground. Even otherwise, it is also settled law that a license agreement is always revocable in terms of the covenants provided thereunder. The Plaintiff had agreed to the entire agreement including Clause 20 in respect of termination of the Agreement, whereas, the Court has not been assisted that in the event of any equipment being nonfunctional, the payment of license fee could be withheld. It is a matter of fact that the Agreement itself is silent about any of the defects in the Chiller / air-conditioning system of the Hotel as pointed out by the Plaintiff. Clause 6.1 of the Agreement states that "*the fixtures and fittings fixed thereto are in working condition and the equipment installed thereto are workable and in accordance*

with the standard specification". Clause 6.2 provides that *"repair and maintenance of the demised property during the License period shall be at the cost of Licensee"*. Whereas, clause 6.3 states "that….*A Board of Officer will be detailed to evaluate the life of originally provided items / equipment and present status on the intimation by the Licensee and in case the equipment is determined unserviceable / beyond repair, that will be removed by DHA and the Licensee will replace the said equipment at his own cost, which will remain the property of Licensee*". It is also a matter of fact that prior to this Agreement, the Plaintiff was working as a Service Provider to another Licensee of DHA namely, The Plaza Companies (Private) Limited, and the said Agreement was terminated by DHA on 8.3.2012, whereas, the Agreement with the Plaintiff was signed on 9.3.2012. Therefore, a presumption of correctness is attached to the fact that either all equipment including the chiller / air-conditioning system were operational, and if not, then the Plaintiff knew about the fault, and accepted the same on as is where is basis, otherwise, nothing prevented the Plaintiff to object to clause 6 of the Agreement in question. Insofar as reliance by the Plaintiff's Counsel on certain documents confirming the non-operational status of certain equipment is concerned, it may be observed that the said documents are post Agreement, and this Court cannot consider those, while interpreting the terms and conditions of the Agreement which speak contrary to those documents. Learned Counsel for the Plaintiff has also relied upon Clause 14 regarding Force Majeure; however, the said clause is of no help as this is not a case of Force Majeure as mentioned in the agreement itself. The same only relates to destruction or damage to the demised property and Force Majeure only comes into picture when such destruction and damage is beyond the control of the parties. The Plaintiff took over possession of the Hotel with an inventory and as per the covenants of the Agreement, wherein all equipment has been shown in workable condition. If it is the case of the Plaintiff that such equipment were non-operational from day one, then in such circumstances the withholding of the License fee ought to have started from day one, and not a single installment should have been paid then. This is not the case; rather, at least six installments were paid, and thereafter, the stance has been changed, on the pretext that equipment's are non-functional,

therefore, the License fee was not paid thereafter. This amounts to blowing hot and cold at the same time.

7. As to the legal issue raised by the learned Counsel for the Plaintiff as well as grant of a mandatory injunction, it would suffice to observe that there is no cavil to this. The Court in appropriate cases can grant a mandatory injunction or status-quo ante, but it is always dependent on the facts of each case independently. In my view the facts in the present case do not warrant any exercise of such discretion in favor of the Plaintiff, who has per-se defaulted in implementing and honoring the very terms of the Agreement, from which now support is being solicited. The Agreement in question stands terminated by the conduct of the Plaintiff and possession has been taken over. Had this not been the case and the Plaintiff had honored its part of the Agreement by making timely payments of the License Fee, notwithstanding the complaints, then perhaps the situation would have been different. But once the Agreement stands terminated by the DHA in accordance with clause 20 thereof, the only remedy lies in claiming damages or compensation and not by restoring the Agreement and the possession as well. Learned Counsel for the Plaintiff made valiant efforts to argue that this is not a License Agreement, but a tenancy Agreement, and therefore could not have been dispossessed except in accordance with law. It is settled law that a Licensee merely has a right to use the property, and such right does not amount an easement, whereas, the privilege of possessing the property is also subject to the terms and conditions of the License. Once a License has been terminated for violation of the terms, notwithstanding the existence, or validity of the License, the Licensor is legally entitled to deal with its property as may deemed fit, and it would be too far-fetched to ask for a Decree of the Court to have the possession back which was given to the Licensee pursuant to the grant of License. For all legal purposes DHA terminated the License by invoking clause 20 of the Agreement upon default, and thereafter, the retention of possession by the Licensee also becomes questionable. All along this period the Plaintiff never disputed or challenged such termination notices and has only come to the Court after being dispossessed. A learned Single Judge of the Lahore High Court in the case reported as ***Abdul Rashid Khan v.***

President Services Institute P.A.F Base Lahore (**1999 MLD 1870**) has been pleased to deal with issue in the following terms;

> 21. As regards second contention that petitioners cannot be dispossessed otherwise then through a civil action, it may be stated that a licensee merely has a right to use the property and such a right does not amount to an easement or an interest in the property but is only a privilege given to the licensee by the licensor. After termination of licensee, the licensor is legally entitled and has a right to deal with his property in the manner he feels like. This right, he gets as owner in possession of the property against possession of the licence, would be deemed to be possession of the lawful owner. He needs not to bring a decree of the Court to obtain and enforce this right but is entitled to resist in defence of his proprietary right the attempts of licensee to come upon his property by exerting necessary and reasonable minimum force to expel the trespasser. If, however, licensor uses excessive force, he may make himself liable to be punished under the prosecution, but he will infringe no right of a licensee.

8. In the case of ***M A Naser v Chaiman Pakistan Easter Railways*** (**PLD 1965 SC 83**) the Hon'ble Supreme Court has been pleased to observe as under;

> Thus this being a revocable licence, the revocation thereof cannot be prevented by injunction. In a case like this the licensee is entitled to a reasonable notice in accordance with the D provisions of section 63 of the Easements Act. If however, the licence is revoked without reasonable notice the remedy of the licensee is by way of damages and not by way of an injunction.
>
> It may also be pointed out that as this contract cannot be specifically enforced, clause (f) of section 56 of the Specific Relief Act will operate as a bar to the grant of injunction. `' Section 21 of the Specific Relief Act provides that…..
>
> From the above provisions licence and as adequate relief may be obtained by way of damages this contract, cannot be specifically enforced and as such no perpetual injunction can be granted in this case.
>
> In the suit there was also a prayer for a declaration under section 42 of the Specific Relief Act that the contract in question was still subsisting. The learned counsel has not pressed this point before us. Under the provisions of section 42 of the Specific Relief Act a person entitled "to any legal character" or to "any right to property" can institute for a declaratory relief in respect of his title to such legal character or right to property. It will therefore, suffice to say that section 42 does not contemplate a suit like the present one.

9. A learned Division Bench of this Court in the case of ***Noorani Traders, Karachi v. Pakistan Civil Aviation Authority*** (**PLD 2002 Karachi 83**) has been pleased to hold as under;

> It would be seen that the controversy between the parties is that on the one hand, the appellant has disputed the cancellation of the Licence Agreement being an alleged arbitrary, mala fide and discriminatory exercise whereas on the other hand, the respondent has denied this claiming the right to cancel the Agreement in terms of powers derived from the Agreement itself as well as being in the public interest. The legal position regarding the rights and obligations of a licensee is well-settled inasmuch as a licence does not contemplate a transfer of interest in property and it is purely a permissible right which is at the behest of the grantor. This position is in contradistinction to a lease whereby there is a transfer of interest and an exclusive right to possession is granted. This would therefore mean that a licensee holds the licensed property purely at the behest of the grantor which can at any stage be revoked in which event the licensee's only namely would be a suit for damages, as specific performance or other equitable relief would not be permissible in the circumstances of the case. The above formulation of law finds full support in the Easements Act itself section 60 of which allows the revocation of a licensee unless it is coupled with a transfer of property of the licensee has executed works of a permanent character in the licensed premises. Further sections 63 and 64 of the said Act provides for the consequences of such revocation viz. reasonable time to the licensee for vacation of the property and his right to recover compensation for damages etc. as result of such eviction. In these circumstances, therefore, a suit for specific performance would not be maintainable as laid down by the Honourable Supreme Court long ago in M.A. Nasir v. Chairman, Pakistan Eastern. Railways and endorsed by the superior Courts from time to time viz., in Royal Foreign Currency Exchange v. Civil Aviation Authority, Zaidi's Enterprises v. Civil Aviation Authority (supra) etc.

10. It is also an admitted fact that though License Agreement was valid till 31.12.2018, but was for fixed period, even otherwise and was not irrevocable in any manner. In fact it was a permission or License as contemplated under Section 52 of the Easements Act, 1882, to do something in or upon an immoveable property. At the most if any eviction has been made before having fully enjoyed the right granted under the License, the Licensee could be entitled to compensation under Section 64 ibid. Though the parties can agree and there is no bar as to having such a License being irrevocable, which otherwise is revocable in terms of Section 60 of the Easements Act, 1882. However, in this case there is no such consensus as to its irrevocability, on the contrary, there is a termination clause which can be otherwise invoked even before the expiry of the Agreement. Therefore, the bar contained in sections 21, 42 and 56 of the Specific Relief Act, 1877, will also be required to be considered at least while considering an application for a mandatory injunction. This will be an impediment in the grant of relief being sought at this stage of the proceedings by the Plaintiff, i.e. putting back the Plaintiff into possession. A learned Single

Judge of this Court in the case reported as ***Malik Muhammad Jawaid v Province of Sindh*** (**2008 CLC 348**) has been pleased to dilate upon this issue in the following manner, which squarely applies to the facts of instant case and reads as under;

> Though a suit filed by a bare licensee for the performance of a contract or for that purposes a declaration or injunction is not maintainable as clause "d" of section 21 of the Specific Relief Act operates as a bar from specifically enforcing a contract, "which by its very nature is revocable Likewise a declaratory suit, under the provisions of section 42 of the Specific Relief Act can only be filed by a person, who is entitled "to any legal character" or "to any right to property". In the same manner clause "f" of section 52 of the Specific Relief Act operates as a bar to the grant of injunction to "prevent the breach of an agreement the performance of which would not be specifically enforced".

11. In view of hereinabove facts and circumstances of this case I am of the view that the Plaintiff has failed to make out a prima facie case as default has been committed in payments of monthly license fee, whereas, two notices for termination of the Agreement were earlier issued in terms of clause 20 thereof, which were neither responded nor challenged before this Court; whereas, balance of convenience also does not lie it its favor. As to causing of irreparable loss, the plaintiff has already asked for compensation and damages, which in the circumstances is the appropriate remedy; hence no case for an injunctive relief is made out. Accordingly, application bearing CMA No.2544/2014 is hereby dismissed. It need not be reiterated that the observations hereinabove are tentative in nature and shall not have any effect on trial of the case.

Dated: 24.12.2018

Ayaz

Judge