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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 647/2023**

SUN PHARMA LABORATORIES LTD. Plaintiff

Through: Mr. Sachin Gupta, Mr. Ajay Kumar,
Mr. Manan Mondal and Ms.
Prashansa Singh, Advs.

versus

CONSERN PHARMA LTD. Defendant

Through: Mr. Ayush Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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26.02.2024

1. Counsel for the defendant states that they do not wish to file a written statement and relied on the affidavit filed on 30th January, 2024 stating that the defendant shall not use the impugned mark.
2. Mr. Sachin Gupta, Counsel for the plaintiff, however, states that they would like to press for costs and damages against the defendant.
3. In view of the statement of the counsel for the defendant on instructions, a partial decree is passed in relation to prayer as in paragraph 28(a) and (b) of the plaint, which are reproduced hereunder:

“a. A decree for permanent injunction restraining the Defendant, its Directors, their assigns in business, licensees, franchisee, distributors, dealers, stockists, retailers, chemists, from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in medicinal & pharmaceutical preparations under the impugned marks VENISH and its extensions or any other trade



mark as may be deceptively similar to the Plaintiffs' registered trade marks VENIZ, and VENIZ - XR and its formative marks amounting to infringement of the registered trade marks;

b. A decree for permanent injunction restraining the Defendant, its directors, their assignees in business, licensees, franchisee, distributors, dealers, stockists, retailers, chemists, servants and agents from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in medicinal & pharmaceutical preparations under the impugned marks VENISH and its extensions as may be deceptively similar to the Plaintiffs' registered trade marks VENIZ, and VENIZ - XR and its formative marks amounting to passing off of the Defendant's goods and business for those of the Plaintiffs'."

4. As regards costs and damages, an issue is framed in the following terms:

Whether plaintiff shall be entitled for a decree of damages/rendition of accounts, if so necessitated, against the defendant? OPP

5. Time of four weeks is given to the plaintiff to file affidavits of evidence, and four weeks thereafter to the defendant.

6. List for recording of evidence before the Joint Registrar on 18th July, 2024.

7. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 26, 2024/MK/ig