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

+ **CS(COMM) 726/2018**

MACLEODS PHARMACEUTICALS LIMITED Plaintiff

Through: Mr. Jayant Mehta, Sr. Adv. with Ms.
Archana Sahadeva, Ms. Brinda Nagaraj,
Advts.

versus

RIDLEY LIFE SCIENCE PVT. LTD.

..... Defendant

Through: Mr. Jaipal, Advocate and Mr. Azaz
Ahmed, Advocates.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
20.05.2024

I.A. 29829/2024 (Application under Order XVIII Rule 17 read with Order XIX Rule 4 of CPC).

1. This application has been filed under Order XVIII Rule 17 read with Order XIX Rule 4 of Code of Civil Procedure, 1908 (“CPC”) on behalf of defendant to permit leading of defendant’s evidence on the issue of cost and damages.
2. Defendant’s counsel states that he had been appointed recently and post reconstruction of files was surprised to note that opportunity to lead evidence on behalf of defendant was not utilized at the appropriate time and accordingly, on that basis, seeks the permission for the same.



3. The said application is strongly refuted by Senior Counsel for plaintiff. It is noted that *ex parte ad interim* injunction was passed on 16th March, 2018 by this Court in favour of plaintiff. Thereafter, issues were framed on 03rd October, 2018 where cost of Rs. 15 lacs was awarded by the Court and the Court had noted as under:

“After some arguments, it transpires that the defendant is a habitual offender/ rank infringer, who agrees to a decree for injunction being passed whenever the suit is filed against it. However, after the disposal of the said suit, the defendant starts passing off and infringing a third party’s product”

4. On 15th February, 2019, counsel for defendant was given time to seek instructions by Joint Registrar regarding filing of witnesses in the matter and time to file a list of witnesses, if any, on the issue of cost and damages.

5. On 05th April, 2022, PW-1 Mr. Himanshu Ranvah was examined in chief. Cross-examination was deferred at the request of proxy counsel for defendant.

6. On 14th September, 2022, PW-1 was present, however, discharged as unexamined, as repeated pass overs were sought by defendant, cost of Rs. 10,000/- (*Rupees Ten Thousand*) were also imposed on the defendant.

7. On 15th November, 2022, PW-1 was cross-examined by counsel for defendants, Mr. Arjun Mitra and Mr. Sumit Rajput. It is noted in the said order of the Joint Registrar that counsel for defendant submitted on instructions that he does not wish to lead DE (*defendant evidence*). Accordingly, DE stood closed. Thereafter matter was listed before the Court for final arguments.

8. On 05th March, 2024, an adjournment slip had been moved by counsel for defendant.



9. Today, this application is being filed, which is not *bona fide*, in the facts and circumstances as stated above. Defendant had the opportunity to cross examine the plaintiff's witness which was availed, as well as lead their evidence, which they chose not to do.

10. In these facts and circumstances, after two years, to reopen the evidence on that issue cannot be sustained. Further, it is also noted that there are at least 15 matters in which defendant has been a party (*as defendant or appellant*) relating to infringement of various pharmaceutical trademarks. A tabulation provided by Senior Counsel for plaintiff is extracted as under for reference: -



SR. NO.	CASE NAME	SUIT NO.	COMPETING TRADE MARKS	CURRENT STATUS
1.	Dr. Reddy's Laboratories Ltd. & Anr. v. Ridley Life Sciences Pvt. Ltd.	CS (OS) 959/2013	NISE v. NICE	Decreed as per Settlement Agreement.
2.	M/s. Leeford Healthcare Ltd. v. Ridley Life Science Pvt. Ltd.	CS(OS) 3027/2015	EARWEL v. EARWELL	Decreed.
3.	Curewell Drugs & Pharmaceuticals pvt ltd & Anr. v. Ridley Life Sciences Pvt. Ltd.	CS(COMM) 4/2015	COMON v. COMMON	Decreed as per Settlement Agreement.
4.	Torque Pharmaceuticals Private Limited v. Ridley Life Sciences Private Limited & Anr.	CS(COMM) 1450/2016	MEDISALIC and FUNGNIL-B v. MADISELIC and FUNGKILL-B	Decreed.
5.	Sun Pharmaceutical Industries Limited & Anr v. Ridley Life-Science Private Limited & Ors.	CS(COMM) 809/2017	REVITAL, VOLINI and PANTOCID v. RIDVITOL, VOLIN-PLUS, PANTORID	Decreed as per Settlement Agreement.
6.	Feezo Chem & Anr v. Ridley life science Pvt. Ltd. v. Ridley Life Sciences Private Limited.	CS(COMM) No.364/2017	FEEZO FIT v. RID FIT	Decreed.
	Feezo Chem & Anr v. Ridley life science Pvt. Ltd. v. Ridley Life Sciences Private Limited.	Ex. P. No. 2/2018		Pending.
7.	Curewell Drugs & Pharmaceuticals Pvt. Ltd. & Anr. v. Ridley Life Science Private Limited & Anr. <u>Judgement dated February 06, 2019</u>	CS(COMM) 1071/2018	BEVITAL v. BEVITAL	Decreed.
8.	M/s Zydus Healthcare Ltd. v. M/s Ridley Life Science Pvt. Ltd. & Ors.	CS(COMM) 722/2019	SKINLITE v. SKINLIFE	Decreed as per Settlement Agreement. Amount of Rs. 4,00,000/- paid by the Defendant.
9.	USV Private Limited v. Ridley Life Science Private Ltd.	CS(COMM) 152/2020	M.V.I. MULTIRID (Packaging) v.	Decreed as per Settlement Agreement. Damages to the tune of Rs. 1,25,000/- paid

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				by the Defendant.
10.	Sanofi v. Ridley Life Sciences, <u>Judgement dated April 20, 2022</u>	CS(COMM) 245/2021	COMBIFLAM v. CONCIFLAM and CORIFLAM	Pending & contempt applications filed. NDOH: 16.07.2024
11.	Dr. Reddy's Laboratories Limited v. Ridley Life Sciences Pvt. Ltd.	CS(COMM) 482/2022	NISE v. BIO NYCE and NYCERID	Decreed as per Settlement Agreement.
12.	Glaxo Group Limited And Anr. V. Ridley Life Science Private Limited.	CS(COMM) 676/2022	FEFOL-Z v. ZEFOL ZENTEL v. ZENSOL BETNESOL v. BESTOSUL NEOSPORIN v. NESOPRIN T-BACT v. T- MACT	Pending. Ex parte ad interim injunction granted against the Defendant.
13.	Ridley Life Sciences Pvt. Ltd. v. Macleods Pharmaceuticals Limited.	FAO(OS)(COMM) 131/2022	PANDERM and PANDERM+ v. PANTADERM and PANTADERM+	Appeal challenging the order dated 03.10.2018 passed in CS (Comm) No. 726/2018. Appeal dismissed as withdrawn on 23.05.2022.
14.	Ridley Life Sciences Pvt. Ltd. v. Curewell Drugs & Pharmaceuticals Pvt. Limited.	FAO(OS)(COMM) 133/2022	BEVITAL v. BEVITAL	Appeal challenging the judgement dated 06.02.2109 passed in CS (Comm) No. 1071/2018. Appeal dismissed as withdrawn on 23.05.2022.
15.	Ridley Life Sciences Pvt. Ltd. v. Sanofi India Limited	FAO(OS)(COMM) 130/2022	COMBIFLAM v. CONCIFLAM and CORIFLAM	Appeal disposed off vide order dated



				24.05.2022. The DB categorically held as under: <i>"6. After noting the aforesaid orders, the learned Single Judge has also observed that the appellant does not deserve any sympathy and is liable for "extremely strict action and heavy monetary cost".</i> <i>7. Considering the several orders passed by this Court in the past, this Court finds no infirmity with the said observations. Indisputably, if the appellant is found to have flouted the injunction order dated 31.05.2021 as alleged, the appellant would be liable to be visited with punitive consequences."</i>
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11. The conduct of this defendant has clearly been abysmal, particularly with regard to adoption of similar marks, repeatedly. By this application, yet again, the desire seems to be to reopen issues and delay determination.

12. Counsel for defendant however, states that their claim for cost and damages is highly erroneous and a Memorandum of Understanding dated 19th May, 2018 had been signed between defendant and plaintiff. However, these are issues which have to be heard as part of the arguments and do not need to be



considered at this stage.

13. Accordingly, in these circumstances, the application is therefore, dismissed.

14. List for hearing on cost and damages on 06th September, 2024.

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

ANISH DAYAL, J

MAY 20, 2024/RK/na

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