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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 726/2018

MACLEODS PHARMACEUTICALS LIMITED Plaintiff

Through : Mr Jayant Mehta, Ms Archana
Sahadeva and Mr Rahul, Advocates.

versus

RIDLEY LIFE SCIENCE PVT. LTD. Defendant

Through : Mr Jayant Tripathi and Mr Sumit
Rajput, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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03.10.2018

IA 3497-3498/2018

Vide order dated 24th April, 2018, the learned Predecessor of this Court had issued a show-cause notice to the Directors of the defendant as to why they should not be proceeded against for filing false affidavits as well as for criminal contempt of court for misleading the Court inasmuch as their acts amounted to obstruction in the administration of justice.

It is pertinent to mention that the defendant had given an undertaking to this Court that the defendant shall change their marks, name, packaging from 'Pantaderm' and 'Pantaderm+' to a mark, name and packaging, which is not deceptively similar to the plaintiff. The defendant also disclosed the batch numbers and stocks including



all packaging in its possession.

Yet subsequently, the defendant's products under different batch numbers with the same impugned marks were found in the market.

After some arguments, it transpires that the defendant is a habitual offender/rank infringer, who agrees to a decree for injunction being passed whenever a 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.

Since the defendant is a habitual infringer with regard to medicinal products which can cause serious harm to public at large, this Court wanted to exercise its powers under Order XXXIX Rule 2A CPC.

However, learned counsel for the defendant prays for a lenient view and undertakes that the defendant shall pay Rs.15 lakhs by way of a demand draft in favour of Lok Nayak Hospital within a period of two weeks. He states that he has no objection if the present suit is decreed in accordance with paras 68(a) &(b) of the prayer clause. The counsel for the defendant also undertakes to file an affidavit of all the Directors of the defendant as well as shareholders to the effect that they will not violate, directly or indirectly, the intellectual property right of any third party within a period of two weeks. He states that in the event the defendant is found to violate or infringe the intellectual property rights of any third party in future, the defendant shall have no objection if costs/damages in excess of crores of rupees is levied upon it.



The undertakings/statements given by the learned counsel for the defendant are accepted and the defendant is held bound by the aforesaid statements/undertakings. In addition, the Drug Controller is directed to depute one of its Inspectors to visit the factory premises of the defendant once a month for a year to ensure that pharmaceutical products are manufactured in accordance with the licence and intellectual property rights of third parties are not violated/breached.

Let a copy of this order be communicated to the Drug Controller by the learned counsel for the plaintiff.

Accordingly, the applications stand disposed of.

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With consent of parties, the only surviving issue that arises for consideration is framed as under:-

- 1. Whether the plaintiff is entitled to damages and to what extent? OPP.*

The plaintiff is directed to file its evidence within a period of two weeks.

List the matter before the Joint Registrar for recording of cross-examination of plaintiff's witnesses on 12th November, 2018.

MANMOHAN, J

OCTOBER 03, 2018

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