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

+ **CS(COMM) 624/2017 & I.A. 10909/2017, I.A. 13833/2023**

PFIZER INC. & ORS

.....Plaintiffs

Through: Mr. Pravin Anand, Ms. Tusha Malhotra, Ms. Tanvi Bhatnagar, Advocates (M:9999748836)

versus

LUCIUS PHARMACEUTICALS & ORS.

.....Defendants

Through: Mr. Ajay Chowdhary, Ms. Sunita Priya, Advocates for D-7 (M:9811356976)
Mr. Ankit Gupta, Adv. for Mr. Manav Gupta, Adv. for D-3.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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05.09.2024

I.A. 13833/2023

1. Court notice issued to Mr. Manav Gupta has returned unserved, for the reason that he is no longer appearing for defendant no.3.
2. In the present application, it is seen that vide order dated 01st February, 2024, the following observations, have been made:

"I.A. 13833/2023

1. This application has been filed by the plaintiffs for summoning Mr. Raj Chawla, proprietor of M/s Inder Medicos (defendant no.3), before this Court for limited examination on the pleas asserted on behalf of defendant no.7.

2. At the outset, Mr. Pravin Anand, counsel for the plaintiff, who appears through VC, states that defendant nos.1 and 2 have already been proceeded ex-parte on 27th November, 2018 and 30th July, 2019 respectively; the suit has already been decreed qua defendant nos. 3, 4 5 and 6; only defendant no.7 is disputing the plaintiff's position.



3. It is noted in the application that defendant no.3 had stated on affidavit filed before the Court that it had procured impugned products from defendant no.7. Assertions to this effect are noted in para nos. 7 to 9 of this application. However, written statement filed by defendant no.7 notes that defendant no.7 had not been contacted by any person and no infringing products had been seized from the premises of defendant no.7 and that he has been falsely impleaded in the present proceedings.

4. Considering the inconsistencies in statements made by defendant no.3 and defendant no.7, the instant application was necessitated, as per the plaintiff's counsel, to ascertain the correct position.

5. However, refuting these allegations, counsel for defendant no.7 points out that an amended memo of parties was filed pursuant to a statement placed on record by defendant no.3 (that an employee of defendant no.3 had contacted one person for supply of the said medicine). Thereafter, defendant no.7 was impleaded in the name of M/s Nagpal Health Care Chemists/Nagpal Chemists, with two different addresses; one at Mehar Chand Market, Lodhi Road, New Delhi and the other at Aurobindo Marg, INA Market, New Delhi. He states that these two entities are separate, have no connection with each other; run by different proprietors; and situated at different locations.

6. Counsel for defendant no.7 states that he has authorisation to represent the case on behalf of both these entities. Further, he submits that no purpose would be served in summoning the partner of defendant no.3, considering that defendant no.7 was arrayed as a party allegedly basis statement made by an employee of defendant no.3.

7. These aspects will have to, therefore, be ascertained from the pleadings of the parties. It would be appropriate if counsel who had appeared for defendant no.3, assists the Court in this regard.

8. Court Notice, therefore, be issued to Mr. M. Begum, who appeared on behalf of defendant no.3 as noted in order dated 30th July, 2019.

9. Counsel for defendant no.7 to ensure that his reply is on record.

10. List on 13th May, 2024.

11. Order be uploaded on the website of this Court. ”



3. Thus, it transpires that defendant no.3 had stated that it had procured infringing products from defendant no.7. However, defendant no.7 in its written statement has stated that he has not been contacted by any person.

4. Accordingly, issue court notice to defendant no.3 by all modes, including Speed Post, to be present either through himself or through some representative, on the next date of hearing.

5. List on 09th October, 2024.

6. At a later stage, Mr. Ankit Gupta, Advocate from the office of Mr. Manav Gupta, Advocate has put in appearance and submits that his office is bound to render any assistance to the Court. The said statement is taken note of.

MINI PUSHKARNA, J

SEPTEMBER 5, 2024

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