

ITEM NO.1

COURT NO.5

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A.No.3 in

CIVIL APPEAL NO.1970 OF 2006

HETERO DRUGS LTD.

Appellant (s)

VERSUS

WOCKHART LTD. & ORS.

Respondent(s)

[For appropriate orders/modifying the order dt.5.4.2006]

Date: 02/02/2007 This Application was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE H.S. BEDI

For Appellant(s)/

Dr. Abhishek Manu Singhvi, Sr. Adv.

Applicant(s)

Mr. Maninder Singh, Adv.

Ms. Pratibha M. Singh, Adv.

Mr. G. Sharma, Adv.

Ms. Sudeep Chatterjee, Adv.

Mr. Sumeet Bhatia, Adv.

Mr. Maninder Singh, Adv.

For Respondent(s) Mr. K.V.Mohan, Adv.

UPON hearing counsel the Court made the following

O R D E R

This application has been filed on behalf of the appellant submitting

that in view of the subsequent developments, the interim order made on April

05, 2006 ought to be vacated. It is submitted that the aforesaid interim order

was passed in view of the fact that the respondents had been granted Exclusive

Marketing Rights (EMR) in respect of the product in question. The aforesaid

EMR in terms provided that it shall continue to be in force for a period of five

years or till such time as the application for product patent is granted or

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refused.

I.A.No.3 in C.A.No.1970/2006 ... (Contd.)

It is not disputed before us that by order dated 18th May 2006, the

application made by the respondents for grant of product patent had been

refused. The said order was challenged before the High Court of Bombay and

by order dated 16th January 2007 prayer for interim relief was refused by the

High Court. In this view of the matter, we are satisfied that the interim order

of April 05, 2006 granting limited interim relief ought to be vacated in view of

the subsequent developments. Accordingly, the said interim order is vacated.

However, in case the respondents succeed before the High Court, it shall have

liberty to apply before this court for appropriate directions.

The application is allowed accordingly.

(Subhash Chander)

Court Master

(Vijay Dhawan)

Court Master