



O.S.A.(CAD) No.70, 75 and 76 of 2026

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2026

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THE HON'BLE MR JUSTICE P. VELMURUGAN

AND

THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

O.S.A.(CAD) Nos.70, 75 and 76 of 2026

and

C.M.P.Nos.15328, 17369 and 17438 of 2026

Softgel Healthcare Pvt., Ltd.,
No.15, Gopalakrishna Road,
T.Nagar, Chennai – 600 017,
And also at : Survey No.20/1,
Vandalur – Kelambakkam Road,
Pudupakkam Village – 603 103,
Tamil Nadu.

... Appellant
(in all O.S.As)

Vs

1. Lotus Pharmaceutical Co. Ltd.,
17F, No.277, Song Ren Road,
Xin Yi District, Taipei City 110, Taiwan,
Represented by it Constituted Attorney
Mr.Mohit Patwardhan



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2. Adalvo Ltd.,
Malta Life Sciences, Building 1, Level 4,
Sir Temi Zammit Buildings,
San Gwann Industrial Estate,
San Gwann SGN3000, Malta.

... Respondents
(in all O.S.As)

Common Prayer: Original Side Appeals filed under Section 13(1) of Commercial Courts Act, 2015 read with Order XXXVI Rule 9 of Original Side Rules, to set aside the common order dated 12.12.2025 passed in O.A.Nos.1165, 1163 and 1164 of 2025 in C.S.(Comm.Div.) No.324 of 2025.

For Appellant	:	Mr.V.Raghavachari
in all O.S.As		Senior Counsel for Mr.A.K.Balaji
For Respondents	:	Mr.Vijay Narayan
in all O.S.As		Senior Counsel for Mr.Arun C.Mohan for R1 Mr.Thriyambak J.Kannan for R2

COMMON JUDGMENT

(Judgment of the Court was delivered by P.Velmurugan, J.)

These intra-Court appeals are filed against the common order dated 12.12.2025 passed in O.A.Nos.1165, 1163 and 1164 of 2025 in C.S.(Comm.Div.) No.324 of 2025.



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2. Heard Mr.V.Raghavachari, learned Senior Counsel appearing on behalf of the appellant, Mr.Vijay Narayan, learned Senior Counsel appearing on behalf of the first respondent and Mr.Thriyambak J.Kannan, learned counsel appearing for the second respondent and perused the materials available on record.

3. Learned Senior Counsel appearing for the appellant submitted that the first respondent/plaintiff is a manufacturer of pharmaceutical products. In the course of its business, the plaintiff had entered into a Master Out-Licensing Agreement dated 31.07.2019 with the second respondent/first defendant. The appellant/second defendant is neither a party to the said Agreement, nor has any contractual relationship with the first respondent/plaintiff. The suit in C.S. (Comm.Div) No.324 of 2025 has been instituted on the allegation that samples of pharmaceutical formulations containing the Active Pharmaceutical Ingredient (API), namely Nintedanib, supplied by the first respondent/plaintiff to the second respondent/first defendant, were subsequently diverted to the appellant/second defendant, who is alleged to have used, or intended to use, the same, along with the confidential information, for manufacturing or

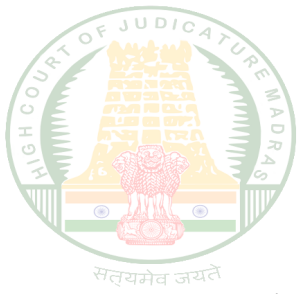


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commercialising similar products. It was contended that, the plaint neither discloses nor establishes any enforceable contractual, statutory or intellectual property right against the appellant/second defendant so as to restrain its lawful commercial activities.

4. Learned Senior Counsel further submitted that the first respondent/plaintiff filed applications seeking ad-interim injunction against the second respondent/first defendant and the appellant/second defendant. Upon hearing the first respondent/plaintiff, the learned Single Judge, by order dated 12.12.2025, granted an ex-parte ad-interim injunction, observing that a *prima facie* case had been made out and restraining the defendants from using the alleged confidential information for manufacturing the same or similar products until the next date of hearing. It was contended that the impugned order was passed without affording the appellant an opportunity of hearing and without examining whether plaint discloses any cause of action against the appellant. It was further submitted that the appellant has filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908, seeking rejection of plaint, which has since been heard and reserved for orders. It was also contended that earlier the second respondent/first defendant had filed an application seeking

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revocation of leave. However, the learned Single Judge, while dismissing the said application, failed to consider the exclusive jurisdiction clause contained in the Agreement and the absence of any material to establish that any part of the cause of action had arisen within the territorial jurisdiction of this Court. It was therefore contended that the learned Single Judge granted the *ex-parte* ad-interim injunction without recording any *prima facie* satisfaction regarding the existence of a *prima facie* case, balance of convenience or irreparable loss. Hence the impugned order is liable to be set aside.

5. Admittedly, in C.S.(Comm.Div.)No.324 of 2025, the first respondent/plaintiff filed applications in O.A.Nos.1163 to 1165 of 2025 seeking interim injunction. However, the learned Single Judge, by order dated 12.12.2025, granted ex-parte ad-interim injunction. Aggrieved by the said order, the appellant/second defendant has preferred the present intra-Court appeals. It is also not in dispute that the appellant has filed an application in A.No.415 of 2026 under Order VII Rule 11 of the Code of Civil Procedure, 1908, seeking rejection of the plaint, and that the said application has been heard and reserved for orders.

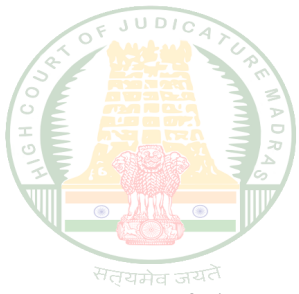


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6. It is pertinent to note that, despite entering appearance through counsel, the appellant has not filed counter affidavit in the applications seeking interim injunction. Instead of contesting the interlocutory applications on merits by placing its defence before the learned Single Judge and seeking appropriate relief in the said applications, the appellant has chosen to invoke the appellate jurisdiction of this Court and also pursuing an application for rejection of the plaint. In these circumstances, when the appellant has an alternative remedy of filing an application for vacating the order of ex-parte ad-interim injunction before the learned Single Judge, this Court is not inclined to examine the correctness of the impugned order in these intra-Court appeals.

7. Having regard to the above circumstances and in order to avoid conflicting decisions, the appellant is given liberty to file its counter affidavit in the applications seeking interim injunction, if the same has not already been filed. Upon such filing, the learned Single Judge is requested to consider the contentions of all the parties, and dispose of the interlocutory applications on merits and in accordance with law. The learned Single Judge shall also take note



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of the outcome of the application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908, if the same has not already been decided.

8. With the above observations and directions, these intra-Court appeals stand disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

(P.V.,J.) (K.G.T.,J.)

15.07.2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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