

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) 1316 OF 2015
IN
SUIT (L) NO. 452 OF 2015

Torrent Pharmaceuticals Limited and Anr. ...Applicants / Plaintiffs

Versus

Pharmaceuticals Institute of India Pvt.Ltd. & Anr. ...Defendants

Mr. Rashmin Khandekar i/b. M/s. Krishna Saurashtri Associates for the Applicants / Plaintiffs.

None for the Defendants.

CORAM : S.J. KATHAWALLA, J.

DATED : 17TH JUNE, 2015

P.C.

1. This is a Suit for trademark and copyright infringement as well as passing off action moved with a Leave Petition. Leave has been granted by an order of this Court (Coram : S.C. Gupte, J.) dated 6th May, 2015. After granting leave under Clause XIV of Letters Patent, the ad-interim injunction in terms of prayer clauses (b) and (c) were granted. The said order is served on the Defendants. However, the Advocate for the Applicants / Plaintiffs undertakes to file the Affidavit proving service of the said order on the Defendants within a period of one week from today. The undertaking is accepted.

2. The Defendants have not appeared before the Court. They have

also not filed the Affidavit in Reply to the Notice of Motion. In view thereof, all that is stated in the Plaint and Affidavit in support of the Notice of Motion has remained uncontroverted. For the reasons set out in the order dated 6th May, 2015, the Notice of Motion is allowed in terms of prayer clauses (b) and (c), which are reproduced hereunder :

“(b) that pending the hearing and final disposal of the Suit, that the Defendants by themselves through their directors, partners, proprietors, servants, agents, dealers, manufacturers, stockiest and / or otherwise howsoever be restrained by an order and injunction of this Hon'ble Court from in any manner using in relation to medicinal preparation including preparation containing calcium carbonate, vitamins etc., the impugned trade mark 'SHECAL / SHECAL-500' and / or any other word or mark which is identical with and / or deceptively similar in any manner whatsoever to that of the Plaintiffs' trade mark 'SHELCAL' so as to infringe the Plaintiffs' trade mark 'SHELCAL' bearing registration Nos. 561663, 979819 and 979818 being Exhibit-A-1 to A-3 hereto.

(c) that pending the hearing and final disposal of the Suit, that the Defendants by themselves through their partners,

proprietors, servants, agents, dealers, manufactures, stockiest and / or otherwise howsoever be restrained by an order and injunction of this Hon'ble Court from in any manner using in relation to medicinal preparation including preparation containing calcium carbonate, vitamins etc., the impugned trade mark 'SHECAL / SHECAL-500' and / or any other word or mark which is identical with and / or deceptively and / or confusingly similar in any manner whatsoever to that of the Plaintiffs' trade mark inter alia containing the word 'SHELCAL' so as to pass off and / or enable others to pass off the Defendants' goods as and for that of the Plaintiffs".

3. The Notice of Motion is accordingly disposed of.

(S.J. KATHAWALLA, J.)