

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT (L) NO.554 OF 2015
WITH
NOTICE OF MOTION (L) NO.1478 OF 2015**

Lata Pharma and Ors. ... Plaintiffs
versus
Max Nutracitics and Ors. ... Defendants

Mr. Rashmin Khandekar /by Ms. Meghna M. Kadam, for Plaintiffs.
Mr. Mujumdar i/by Mr. V.T.Dubey, for Defendants.

CORAM: S.J. KATHAWALLA, J.

DATE: 29th JULY, 2015

PC.:

1. Heard the learned Advocates for the parties and by consent, the following order is passed :

(i) The Suit is decreed in terms of the prayer clauses (a), (b) and (c), which are reproduced hereunder :

(a) that the Defendants by itself, its partners, its directors, proprietors, servants, subordinates, representatives, stockists, dealers, agents and all other persons claiming under them be restrained by a perpetual order and injunction of this Hon'ble Court from infringing the Plaintiffs' trade mark MVBC-L bearing registration No.1908405 in any manner and from using in relation to any products, the impugned mark MCVC or any other mark which is deceptively similar to the mark MVBC-L and from manufacturing, selling or offering for sale,

advertising or dealing in any products under the impugned mark MCVC or any other mark which is deceptively similar to the Plaintiffs' mark MVBC-L;

(b) that the Defendants by itself, its partners, its directors, proprietors, servants, subordinates, representatives, stockists, dealers, agents and all other persons claiming under them be restrained by a perpetual order and injunction of this Hon'ble Court from manufacturing, selling, advertising, offering to sell any products under or bearing the mark MCVC or any other mark resembling the Plaintiffs' marks MVBC-L OR MVBC or the impugned packaging depicted at Exhibit F or any packaging identical to or similar to or having the features, get-up, colourscheme, layout of the MVBC Packaging and from using in relation to any products the mark MCVC or the impugned packaging depicted at Exhibit F or any other mark resembling the Plaintiffs' marks MVBC-L or MVBC or the MVBC Packaging in any manner, so as to pass off or enable others to pass off the Defendants' goods as those of the Plaintiffs' goods;

(c) that the Defendants by itself, its partners, its directors, proprietors, servants, subordinates, representatives, stockists, dealers, agents and all other persons claiming under them be restrained by a perpetual order and injunction of this Hon'ble Court from infringing in any manner the Plaintiff's copyright in the artistic work comprised in/reproduced on the MVBC Packaging and from using the impugned packaging depicted at Exhibit F and/or reproducing / copying the MVBC

Packaging or any substantial part thereof, (including in particular any of the features thereof) on the impugned goods or the impugned packaging (including those depicted at Exhibit F to the Plaint) or any packaging material or advertising material, literature, website, webpages or any other substance and from manufacturing and selling or offering for sale products upon or in relation to which any works infringing the MVBC Packaging has been reproduced or substantially reproduced or by issuing copies of such works to the public;

(ii) Forty strips of the impugned product in possession of the Defendants bearing the impugned mark shall be returned to the Plaintiffs for destruction within a period of one week from today.

(iii) In view of this order, the Plaintiffs are not pressing for any costs and/or damages.

(iv) The learned Advocates for the Defendants undertakes to file Vakalatnama within a period of one week from today. The undertaking is accepted.

(v) The Suit and the Notice of Motion are accordingly disposed of.

(S.J.KATHAWALLA, J.)