

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1149 OF 2014
IN
SUIT NO. 637 OF 2014

Ajanta Pharma Limited ... Applicant / Plaintiff

Versus

Maiden Pharmaceuticals Pvt. Ltd. & Anr. ... Defendants

LEAVE PETITION NO. 204 OF 2014

Mr.A.H. Kane a/w. Ms. Janaki Bhide i/b. W.S. Kane and Company for the Applicant / Plaintiff.

Mr.Sanjay Dubey a/w. Indradeep Singh i/b. J.H. Mishra for the Defendants.

Mr.Asim Hazra, Representative of the Plaintiff, present.

CORAM : S.J. KATHAWALLA, J.
DATED : 15TH JUNE, 2015

P.C.

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

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

“(a) that the Defendant by itself, its directors, servants, stockists, dealers, distributors and agents be restrained by a perpetual order and injunction of this Hon'ble Court from infringing the Plaintiffs registered trade marks bearing

registration Nos. 1459619 and 2334190 both in class 05 by the use of the impugned packaging at Exhibit-F to the Plaint and / or the impugned logo or any other packaging or logo deceptively similar to the Plaintiff's aforesaid registered trade marks, in respect of medicinal and pharmaceutical preparations and / or like goods or in any other manner whatsoever ;

(b) that the Defendant by itself, its directors, servants, stockists, dealers, distributors and agents be restrained by a permanent order and injunction of this Hon'ble Court from infringing the Plaintiff's copyright in its artistic packaging registered under No. A-90918/2011 by reproducing and / or publishing and / or using the impugned packaging shown at Exhibit-F to the Plaint or by reproducing and / or publishing and / or using any other work which is a reproduction of the Plaintiff's artistic packaging registered under No. A-90918/2011 and / or substantial part thereof in any material form or in any other manner whatsoever ;

(c) that the Defendant by itself, its directors, servants, stockists, dealers, distributors and agents be restrained by a

permanent order and injunction of this Hon'ble Court from manufacturing and / or trading in and / or exporting and / or otherwise dealing in medicinal and pharmaceutical preparations contained in the impugned packaging at Exhibit-F to the Plaintiff or any other packaging deceptively similar to the Plaintiffs well-known packaging at Exhibit-A-1 to the Plaintiff and / or a packaging containing the impugned logo or a logo identical with or deceptively similar to the Plaintiffs well known logo at Exhibit-A-2 to the Plaintiff, so as to pass off or enable others to pass off the Defendant's goods as and for the Plaintiffs well-known goods or in any other manner whatsoever”.

ii. The Defendant shall pay costs of Rs.1 Lac.

iii. By consent of the parties, it is agreed that the said cost will be paid to “Society for the Education of the Crippled”, which works for the education and rehabilitation of children and adults with physical and multiple disabilities from a low economic group.

2. The Defendant undertakes to donate the said amount of Rs. 1,00,000/- in the manner set out hereinabove within a period of four weeks from the date of this order and to forthwith forward a copy of the receipt issued by the charitable institution / organization to the Advocate

for the Plaintiff. The undertaking is accepted.

3. The above Leave Petition, Notice of Motion and Suit are accordingly disposed of.

4. Refund of Court fees, if any, as per Rules.

(S.J. KATHAWALLA, J.)