

is an infringement of or deceptively similar to the registered trade mark "HAPATOGLOBINE" of the Plaintiffs bearing No.4044 falling in Class 5 :

(b) that the Defendants by themselves, their servants, agents, distributors and stockiest be restrained by an order and perpetual injunction of this Hon'ble Court from directly or indirectly, using in relation to pharmaceutical preparations or medicinal preparations or manufacturing, exporting, selling or distributing pharmaceutical preparations or medicinal preparations under the trade mark "HAPID-GLOBIN" or under any other trade mark deceptively similar to or a deceptive variation of the trade mark "HEPATOGLOBINE" of the Plaintiffs with the fraudulent and deceptively similar get-up and colour scheme in the bottle label of Defendants being Exhibit-E-2 and the carton being Exhibit-F-2 so as to pass off or likely to pass off or enable others to pass off the Defendants medicinal or pharmaceutical preparations as and for those of the Plaintiffs as depicted in the Plaintiffs' bottle label being Exhibit-E-1 and carton being Exhibit-F-1 to the Plaint;

(c) That the Defendants by themselves, their servants and

agents be restrained by an order and perpetual injunction of this Hon'ble Court from printing, publishing or reproducing the artistic-cum-literary work in any material form in relation to their medicinal and pharmaceutical preparation, the bottle label complained of being annexed and marked as Exhibit-E-2 and the carton being Exhibit-F-2 to the Plaint and thereby committing an infringement of copyright the Plaintiffs have in their original artistic work and literary work as depicted in bottle label and carton in relation to Plaintiffs' preparation bearing the trademark "HAPEATOGLOBINE" as depicted in Exhibit-E-1 and Exhibit-F-1 to the Plaint ;

(d) That the 1st Defendants be ordered to forthwith withdraw their Application bearing Application No.1538861 in Class 5 as filed in the Branch Office of the Trade Marks Registry, at Mumbai for registration of the infringing trade mark 'HAPID-GLOBIN' and to forward to Plaintiffs' Advocates and Solicitors a true copy of the said letter addressed to the Registrar of Trade Marks, withdrawing the said Application".

- ii. The Plaintiff is not pressing for costs and / or damages.
- iii. The Suit is accordingly disposed of.

(S.J. KATHAWALLA, J.)