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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION(L)NO.3082 OF 2015
IN
SUIT(L)NO.1157 OF 2015
WITH
LEAVE PETITION NO.257 OF 2015**

IPCA Laboratories Limited	...Applicant
<u>In the matter between</u>	
IPCA Laboratories Limited	...Plaintiff
V/s.	
Systemic Healthcare & Anr.	...Defendants

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Mr. Rashmin Khandekar a/w Minesh Andharia i/b. Krishna & Saurastri Associates for the Plaintiff.
Ms. Vrushali L. Maindad for Defendant no.1.
Defendant no.2 absent.
Mr. D. K. Patil, Section Officer, Court Receiver.

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CORAM : A. K. MENON, J.

DATE : 15TH DECEMBER, 2015.

PC.:

Mr. Khandekar, the learned counsel appearing for the plaintiff tenders an affidavit of service proving service of the plaint and proceedings and the ad-interim order dated 30th October, 2015 passed by this Court. It is seen to be served upon the defendant no.2 on 23rd November, 2015. The Suit is for trade mark action seeking decree of permanent injunction restraining the defendants from in any manner

using the impugned trade mark and/or any other mark or both identical to or it is similar in any manner to the plaintiff's registered trade mark and for the decree by way of damages and for other interim reliefs.

2. Vide order dated 22nd November, 2015 this Court had directed that the Petition filed under clause XIV of Letters Patent would be considered at the further hearing of the ad-interim application. Today the defendant no.2 is absent on call. Accordingly, the Petition under clause XIV of Letters Patent bearing Leave Petition No.257 of 2015 is made absolute in terms of prayer clause (a) thereby permitting the plaintiffs to combine the cause of action of infringement of trade mark with passing off.

3. The ad-interim order dated 30th October, 2015 this Court had granted reliefs in terms of prayer clauses (a) and (b). The Court Receiver appointed under prayer (a) in respect of the goods said to be manufactured and stocked. This order was executed on 23rd November, 2015. The Receiver has since executed the order and his Commission is evident from the reports dated 23rd November, 2015 in respect of his visit and site report at the Haridwar premises of defendant no.1 and the second report also dated 23rd November, 2015 in respect of the site report in respect of the premises at Hyderabad

3] As far as prayer (a) is concerned, the Receiver having executed his Commission the learned counsel for the plaintiffs undertake to pay the Receiver cost charges and expenses of cost of the report within a period of two weeks from today and or within two weeks of the final report being prepared whichever is later. On the application of the plaintiffs, the Court Receiver is therefore discharged without passing of accounts. The learned counsel for the plaintiffs now prays for further reliefs in terms of prayer clause (c) of the Motion. Accordingly, the Motion is absolute against defendant no.2 in terms of prayer clauses (b) and (c).

4] As far as defendant no.1 is concerned, the learned counsel undertakes to file a Vakalatnama within a period of one week from today. She states that she has received instructions from the first defendant to state that they have stopped the marketing of the impugned products since the date of the ad-interim order being served upon the defendant no.1. In the circumstances, motion is made absolute in terms of prayer clause (b) against defendant no.1 as well. Notice of motion is disposed off in the above terms.

(A. K. MENON, J.)