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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 1783/2012

M/S ANTEX PHARMA PVT LTD Plaintiff

Through: Mr. Sumit Rajput and Mr. Prannoy
Khurana, Advs.

versus

SKYMAP PHARMACEUTICALS & ANR Defendants

Through: Mr. Kapil Kher, Adv. for defendants
with Mr. Sanjay Gupta, Partner of D-
1 in person.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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28.08.2015

Mr. Sanjay Gupta, one of the partners of defendant no.1 is present in Court. He submits that defendant no.1 was manufacturing cough syrup under the trade mark 'BYDEX, 'BYDEX-BR' and 'BYDEX-MINT' exclusively for the defendant no.2-M/s Biochem Pharmaceutical Industries Ltd. He further submits that defendant no.1 has stopped manufacturing cough syrup under the trade mark 'BYDEX, 'BYDEX-BR' and 'BYDEX-MINT' in the year 2012 itself, after coming to know about passing of injunction order dated 1st June, 2012. He further submits that cough syrup is not being manufactured or sold by the defendant no.1 under the trade mark 'BYDEX, 'BYDEX-BR' and 'BYDEX-MINT' nor defendant no.1 has any intention to manufacture or sell cough syrup or any other pharmaceutical

product under the said trade mark in future. Statement of Mr. Sanjay Gupta has been recorded, on oath, in this regard separately.

Learned counsel for the defendants submits that he has instructions from the defendant no.2 as well that defendant no.2 has stopped marketing, selling and distributing cough syrups under the mark 'BYDEX, 'BYDEX-BR' and 'BYDEX-MINT' or any other trade mark which may be deceptively similar with plaintiff's trade mark 'BIODEX'. He further submits that defendant no.2 is not selling cough syrup or any other pharmaceutical preparations under the mark 'BYDEX, 'BYDEX-BR' and 'BYDEX-MINT' nor has any intention to do so in future. Learned counsel further submits that defendants have no objection in case decree is passed in favour of the plaintiff in terms of prayer 25 (a) of the plaint.

Learned counsel for the plaintiff submits that in view of the statement of Mr. Sanjay Gupta, partner of defendant no.1, plaintiff is not pressing other reliefs except prayer 25 (a).

Accordingly, a decree is passed in favour of the plaintiff and against the defendants in terms of prayer 25 (a) of the plaint. Decree sheet be drawn accordingly. No order as to costs.

A.K. PATHAK, J.

AUGUST 28, 2015/ga