

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

APPEAL NO.162 OF 2016
IN
COMPANY PETITION NO.178 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
M/s.APM Industries Limited	Respondent

WITH
APPEAL (L) NO.769 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Tata Capital Financial Services Ltd.	Respondent

WITH
APPEAL NO.238 OF 2016
IN
COMPANY PETITION NO.961 OF 2014

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Mak Polyplast	Respondent

WITH
APPEAL NO.180 OF 2016
IN
COMPANY PETITION NO.768 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
M/s.Kamal Supers Limited	Respondent

WITH
APPEAL NO.172 OF 2016
IN

COMPANY PETITION NO.312 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
M/s.Excelsior Business Link Ltd.	Respondent

WITH
APPEAL NO.175 OF 2016
IN
COMPANY PETITION NO.24 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Rakesh Singh	Respondent

WITH
APPEAL NO.160 OF 2016
IN
COMPANY PETITION NO.19 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
F.C.Properties & Developers Pvt.Ltd.	Respondent

WITH
APPEAL NO.161 OF 2016
IN
COMPANY PETITION NO.19 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Fairtex International	Respondent

WITH
APPEAL NO.179 OF 2016
IN
COMPANY PETITION NO.23 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Pioneer Enterprises	Respondent

WITH
APPEAL NO.165 OF 2016
IN
COMPANY PETITION NO.976 OF 2014

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
RB Financial Services Pvt.Ltd.	Respondent

WITH
APPEAL NO.294 OF 2015
IN
COMPANY PETITION NO.961 OF 2014

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Tata Capital Financial Services	Respondent

WITH
APPEAL NO.164 OF 2016
IN
COMPANY PETITION NO.16 OF 205

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
S.PShah HUF	Respondent

WITH
APPEAL NO.181 OF 2016
IN
COMPANY PETITION NO.25 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Jyoti Sodhani	Respondent

WITH
APPEAL NO.177 OF 2016
IN
COMPANY PETITION NO.235 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Neville Maneck Gyara and another	Respondents

WITH
APPEAL NO.167 OF 2016
IN
COMPANY PETITION NO.776 OF 2014

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Silver Quest (India) Pvt.Ltd.	Respondent

WITH
APPEAL NO.170 OF 2016
IN
COMPANY PETITION NO.136 OF 2016

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
MAK ampoules Pvt.Ltd.	Respondent

WITH
APPEAL NO.171 OF 2016
IN
COMPANY PETITION NO.42 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Kaveri Impex Pvt.Ltd.	Respondent

WITH
APPEAL NO.168 OF 2016

IN
COMPANY PETITION NO.47 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Sumit Resorts and Farms Pvt.Ltd.	Respondent

WITH
APPEAL NO.178 OF 2016
IN
COMPANY PETITION NO.26 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Jagruti K. Bavishi	Respondent

WITH
APPEAL NO.184 OF 2016
IN
COMPANY PETITION NO.112 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
Western Logistics Pvt.Ltd.	Respondent

WITH
APPEAL NO.183 OF 2016
IN
COMPANY PETITION NO.177 OF 2015

M/s.Elder Pharmaceuticals Ltd.	Appellant
versus	
M/s.Rajgarhia Leasing & Finance Service Ltd.	Respondent

WITH
APPEAL NO.166 OF 2016
IN
COMPANY PETITION NO.990 OF 2014

M/s.Elder Pharmaceuticals Ltd.

Appellant

versus

Sunchan Finance Limited

Respondent

WITH

APPEAL NO.182 OF 2016

IN

COMPANY PETITION NO.20 OF 2015

M/s.Elder Pharmaceuticals Ltd.

Appellant

versus

Ground Control Properties Pvt.Ltd.

Respondent

WITH

APPEAL NO.176 OF 2016

IN

COMPANY PETITION NO.21 OF 2015

M/s.Elder Pharmaceuticals Ltd.

Appellant

versus

Kiran Properties LLP

Respondent

Mr.Pankaj Sawant, Senior Advocate, with Mr.Ali Abbas Delhiwala, Ms.Tripty Kapadia, Ms.Nidhi Singh i/by Joy Legal Consultants for Appellant.

Mr.Aziz Khan with Mr.J.A.Choshi i/by Divya Shah Associates for Respondents in Appeal Nos.161/2016, 164/2016, 165/2016, 175/2016, 176/2016, 178/2016, 179/2016, 181/2016 and 182/2016.

Ms.Niyati J. i/by W.S.Kane & Co. for Respondent in Appeal No.294/2015.

Mr.S.U.Kamdar, Senior Advocate, with Mr.Simil Purohit and Mr.Tushar Kadam i/by MDP & Partners for Respondent in Appeal (L) No.769 of 2015.

Ms.Dipti Panda i/by Narayanan & Narayanan for Respondent in Appeal Nos.170/2016 and 238/2016.

Mr.D.J.Kakalia with Mr.Vaibhav Sharma i/by M/s.Mulla & Mulla & CBC for Respondent in Appeal No.177/2016.

Mr.D.Banerji i/by Z.H.Zaidy for Respondent in App.184/2016.
Mr.Kunal Chheda i/by M.V.Kini & Co. for Axis Fund in Appeal
No.769/2016 and App.294/2015.

CORAM : A.S.OKA AND P.D.NAIK, JJ.

DATE : 05th April 2016

PC :

1. Appeal No.256 of 2014 is wrongly tagged with the entire group. The same shall be detached and fixed on 2nd May 2016. Appeal No.238 of 2016 is not on board. The same is taken on board.
2. Learned Senior Advocate appearing for the Appellant, on instructions of Mr.Alok Saxena, Managing Director of Elder Pharmaceuticals Limited, seeks permission to unconditionally withdraw these appeals. However, he prays that the ad-interim order granted in terms of clauses (ii) and (iii) of paragraph 5 of the order of earlier Division Bench dated 21st October 2015 be continued for a period of 90 working days expiring on 04th August 2016.
3. The last prayer made by the learned Senior Advocate for the Appellant is opposed by the learned counsel representing the Respondents.

4. Clause-(iii) of the said order records that there will be stay of further proceedings before the learned Single Judge. Though the request made by the learned Senior Advocate appearing for the Appellant deserves to be accepted, the proceedings of Company Application No.626 of 2015 filed in Company Petition No.768 of 2015 or proceedings of any other application for appointment of investigating agency, cannot be stayed and the said prayer will have to be considered by the learned Single Judge in accordance with law.

5. Accordingly, we pass following order :

(a) The appeals are dismissed as unconditionally withdrawn;

(b) Clause-(ii) of paragraph 14 of the operative part of the impugned order dated 1st October 2015 shall not be implemented till 04th August 2016;

(c) Clause-(iii) of the paragraph 5 of the order dated 21st October 2015 will continue to operate till 04th August 2016 with a clarification that this order will not prevent the learned Company Judge from dealing with the prayer made in Company Application No.626 of 2015 or any other company application confined to appointment of an investigating agency. The learned Company Judge shall deal with such prayer in accordance with law. All contentions of the parties in that behalf are kept open;

(d) We make it clear that no further extension shall be granted to the Appellant;

(e) All pending Notice of Motions in above appeals do not survive and stand disposed of as such.

(PD.NAIK, J.)

(A.S.OKA, J.)

MST