

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.01.2016

CORAM

THE HONOURABLE MR. JUSTICE **K.K.SASIDHARAN**

**C.S.No.631 of 2015**

Sun Pharmaceutical Industries Ltd.,  
CD Plot No.3, Door No.8, Old Tower Block  
Street, Nandhanam Extension,  
Chennai - 600 035  
rep. By its Constituted Attorney,  
Ms.Radha Kumar ... Plaintiff

Vs.

1. Unichem Laboratories Ltd.,  
Unichem Bhavan, Prabhat Estate,  
Off. S.V.Road, Jogeshwari (West),  
Mumbai - 400 102
2. Aurochem Laboratories (I) Pvt., Ltd.,  
8, P.T.I.Co-Op. Est. Ltd.,  
Palghar 401 404  
Dist Thane, Maharashtra ... Defendants

**PRAYER:** Plaint filed under Order IV Rule 1 of  
O.S.Rules and Order VII Rule 1 of CPC read with  
Sections 27, 134 and 135 of the Trade Marks Act,  
1999

(a) Permanent injunction restraining the defendants  
its distributors, stockists, servants, agents,  
retailers, legal representatives or any other  
person claiming under them from in any manner  
manufacturing, selling offering for sale, stocking,

advertising directly or indirectly dealing in medicinal and pharmaceutical preparations under the trademark SUNKARE along with a deceptively similar colour scheme, get up and lay out for the packaging or any other mark deceptively similar to plaintiff's trademark SUNCROS so as to pass off their products as and for the plaintiff's products or in any manner whatsoever;

b. The defendants be ordered to pay to the plaintiff a sum of Rs.50,00,000/- as liquidated damages for committing acts to pass off their products as and for the plaintiff's products;

c. The defendants be ordered and decreed to deliver up for destruction to the plaintiff all the preparations, dies, blocks, labels, packaging either filled or empty, blocks, labels, packaging either filled or empty, brochures, leaflets, pamphlets, hand bills, hoardings, wall posters, calendars, carry bags, stationery items and such other sales promotional materials bearing and / or containing the impugned trademark SUNKARE along with an almost identical/deceptively similar trade dress.

d. A preliminary decree be passed in favour of the plaintiff directing the defendants to render accounts of profits made by them by use of the trademark SUNKARE along with packaging containing

deceptively similar colour scheme, get up and layout and a final decree be passed in favour of the plaintiff for the amount of profits found to have been made by the defendants after the latter has rendered accounts.

e. For costs of the entire proceedings, and

For Plaintiff : Mr.Arun C.Mohan

For Defendants : M/s Gladys Daniel

### J U D G M E N T

The plaintiff filed the suit against the defendants praying for a decree of permanent injunction restraining them from manufacturing, selling offering for sale, stocking, advertising directly or indirectly dealing in medicinal and pharmaceutical preparations under the trademark SUNKARE along with a deceptively similar colour scheme, get up and lay out for the packaging or any other mark deceptively similar to plaintiff's trademark SUNCROS and for damages.

2. The plaintiff and defendants have settled the dispute subsequently.

3. The parties have produced a memorandum of compromise dated 15<sup>th</sup> December, 2015. The said

Memorandum of Compromise contains the terms and conditions of the settlement.

4.The plaintiff is represented by Mrs.Radha Kumar, authorised signatory. The 1<sup>st</sup> defendant is represented by Mrs.Neema Thakore. The 2<sup>nd</sup> defendant is represented by Mr.Mahesh Shah. The parties have confirmed the execution of the memorandum of compromise.

5. The suit is decreed in terms of the Memorandum of Compromise. The Memorandum of Compromise dated 15<sup>th</sup> December, 2015 shall form part of the decree. Consequently connected Applications are closed. No costs.

sd/. K.K.S.J

सत्यमेव जयते 06.01.2016

//Certified to be a true copy//

Dated this the day of 2016.

S.s/29.04.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.