

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.11.2016

CORAM

THE HONOURABLE Mr.JUSTICE M.M.SUNDRESH

CIVIL SUIT No.376 OF 2016
and O.A.No.513 of 2016

1. NOVARTIS AG,
Lichtstrasse 35, 4056
Basel,
Switzerland
Represented by its Power of Attorney,
Mr.Durganand Singh
Sandoz House, Dr.Annie Besant Road,
Worli, Mumbai - 400 018.
2. NOVARTIS HEALTHCARE PVT. LIMITED
Sandoz House, Dr.Annie Besant Road,
Worli, Mumbai - 400 018.
represented by its Power of Attorney
Mr.Durganand Singh

..Plaintiffs

-vs-

1. ATOZ PHARMACEUTICALS PVT LTD
1/8 Balaji Nagar West, opp. Stead Fort Hospital,
Thirumullaivoyal,
Ambattur, Chennai - 600 053
and also at
8-G, 8th Floor, 560, Century Plaza,
Anna Salai, Teynampet,
Chennai - 600 018, Tamil Nadu
India.
2. ZOTA PHARMACEUTICALS PVY. LTD
8-G, 8th Floor, 560, Century Plaza,
Anna Salai, Teynampet,
Chennai - 600 018, Tamil Nadu

India.

..Defendants

Plaint filed under Order IV Rule 1 of O.S.Rules read with Order VII
Rule 1 of C.P.C read with Section 108 of the Patents Act, 1970

For Plaintiffs : Mr.C.Daniel

For Defendants : Mr.Ajmal Azzath

J U D G M E N T

There is no lis as of now. The suit is laid for the following reliefs:

a) a judgment and decree for permanent injunction restraining the defendants, by themselves or through their directors, group companies, subsidiaries, sister concerns, associates, divisions, assigns in business, licensees, franchisees, agents, distributors and dealers from using, manufacturing, importing, selling, offering for sale, exporting, directly or indirectly dealing in active pharmaceutical ingredient (API), pharmaceutical products or formulations containing Vildagliptin alone or Vildagliptin in combination with any other compound or API or in any other form as may amount to infringement of Indian Patent No.212815 of the Plaintiff No.1;

b) an order of rendition of accounts of profits earned by the defendants, in the event of manufacture and sale of any Vildagliptin API or infringing pharmaceutical products or formulation containing Vildagliptin alone or Vildagliptin with any compound or API and a decree for

the amount so found due may be passed or in the alternative damages as may be ascertained by this Hon'ble court and a decree for damages as ascertained may be passed in favour of the Plaintiffs and against the defendants;

c) a decree for delivery up for all the stock of Vildagliptinn API or infringing pharmaceutical products or formulations, comprising Vildagliptin alone and/or Vildagliptin in combination with any other compound or API as may amount to infringement of the suit patent to an authorized representative of the Plaintiffs;

d) cost of the proceedings.

2. Now the learned counsel for the defendants produced a document issued by the office of the Director of Drugs Control dated 21.07.2016 which reads as follows:

L.Dis.No.12510/D1/3/2016

Office of the Director of
Drugs Control,
Tamil Nadu,
Chennai - 600 006.
Dated: . 07.2016

Sub: Drugs - Drugs & Cosmetics Act, 1940 and Rules
made there under - M/s. A to Z Pharmaceuticals
Pvt.Ltd., No.12, Balaji Nagar, Ambattur,
Chennai - 600 053 -
Cancellation of Product requested - Reg.

Ref: Letter dated 14.07.2016 from M/s. A to Z
Pharmaceuticals Pvt Ltd. No.12,
Balaji Nagar, Ambattur, Chennai - 600 053.

M/s. A to Z Pharmaceuticals Pvt. Ltd., No.1/8, Balaji

Nagar, Ambattur, Chennai - 600 053. the applied product "VILDAPIN-50" in Additional Endorsement list of licence in form 25 bearing No.935 Dated : 19.03.1998 renewed up to 31.12.2016 is cancelled as requested by the firm.

The original list of product is return herewith.

3. In view of the same, learned counsel appearing for the plaintiffs submitted that the other reliefs are not pressed and therefore, the decree for permanent injunction may be granted.

4. Learned counsel appearing for the defendants also submits that the defendants are not manufacturing the product which is subject matter of patent of the plaintiffs.

5. In such view of the matter, there shall be a decree for permanent injunction restraining the defendants, by themselves or through their directors, group companies, subsidiaries, sister concerns, associates, divisions, assigns in business, licensees, franchisees, agents, distributors and dealers from using, manufacturing, importing, selling, offering for sale, exporting, directly or indirectly dealing in active pharmaceutical ingredient (API), pharmaceutical products or formulations containing Vildagliptin alone or Vildagliptin in combination with any other compound or API or in any other form as may amount to infringement of Indian Patent No.212815 of the Plaintiff No.1. In all other aspects, the suit has been dismissed as withdrawn. No costs. Consequently, connected application is closed.

08.11.2016

vsi

M.M.SUNDRESH,J.

vsi

CIVIL SUIT No.376 OF 2016

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