

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.08.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and

The Honourable Mr.Justice R.MAHADEVAN

W.P.No.27851 of 2016

Bharat Biotech International Limited
Vamsi Sadan,
Plot No.265/266, Kamalapuri,
Colony, Phase II,
Hyderabad 500073 ... Petitioner

Versus

1.The Intellectual Property Appellate Board,
2nd Floor, Annexe I,
443, Guna Complex, Anna Salai,
Chennai 600 018. Rep.by Deputy Registrar.

2.Smithkline Beecham Biologicals S.A.
BelgiumRue De Institut 89, Rixensart
B-1330, Belgium,
Now known as
Smithkline Beecham Biologicals S.A. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari, calling for the records of the 1st respondent and quash the order dated 29.02.2016 in M.P.No.14/16 in O.A.No.17/2011/TM/CH.

For Petitioner ::: Mr.R.Sathish Kumar

O R D E R

(The Order of the Court was made by The Hon'ble
The Chief Justice)

The appellant seeks to assail the impugned order of the Intellectual Property Appellate Board dated 29.02.2016 granting interim stay of the impugned order, whereby the registration of the petitioner had been sustained.

2. In order to appreciate the controversy, it is necessary

to set out that we are dealing with registration of drugs in this case.

3. The petitioner before us sought registration of their Trade Mark 'HEPARIX-B'. The second respondent also has registration of Trade Mark 'HAVRIX'. Needless to say, that the care expected to be taken in respect of registration of pharmaceutical drugs has to be more.

4. A suit had been filed on the original side of the Delhi High Court by the respondent being CS (OS) No.320 of 2007 and in respect of the interim applications, agreed arrangement was arrived at. The effect of the interim arrangement is that the petitioner were permitted to sell the existing stocks within a specified period of time, while recording the undertaking not to use the registered Trade Mark.

5. On hearing the learned counsel for the petitioner, we are of the view that the interim order passed by the appellate authority is in sync with the order passed by the Delhi High Court and the fact is that the petitioner/company are in any case unable to sell their products under their registered Trade Mark.

6. We may also notice that this is an interim arrangement arrived at by the IPAB and the final hearing of the appeal is yet to take place. There is no perversity or lack of jurisdiction in respect of the impugned order so as to call for an interference under Article 226 of the Constitution of India.

7. The writ petition stands dismissed, leaving the parties to bear their own costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS II)

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Sub Assistant Registrar

ksr

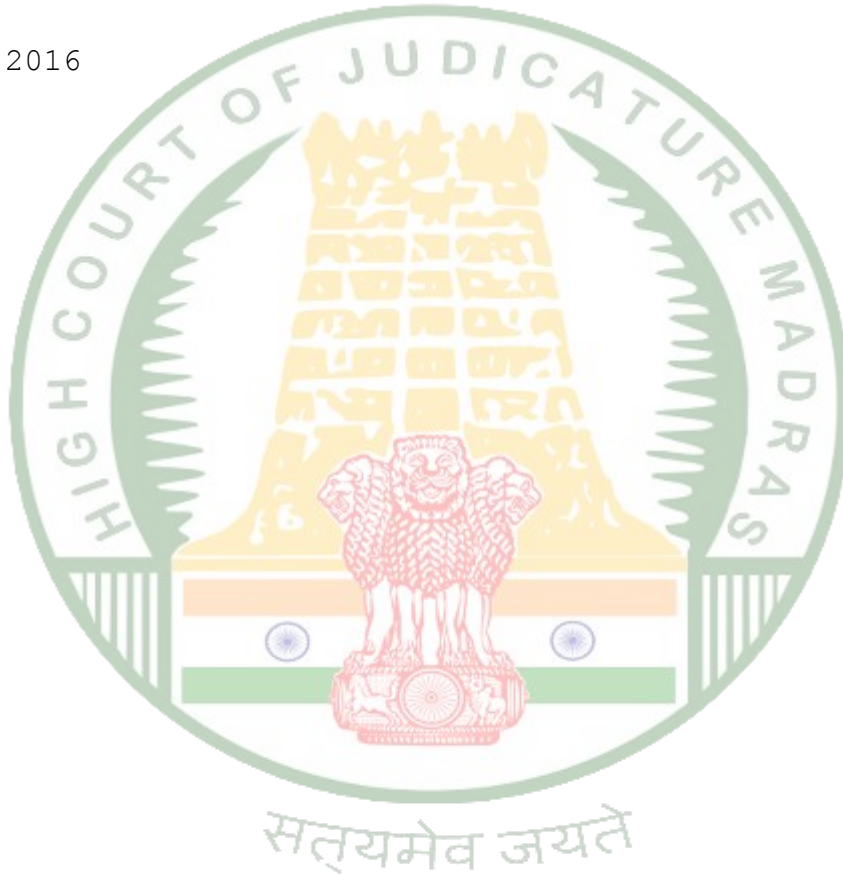
To

The Intellectual Property Appellate Board,
2nd Floor, Annexe I,
443, Guna Complex, Anna Salai,
Chennai 600 018.

2 ccs to M/s.R.Satish Kumar, Advocate, sr.45560

W.P.No.27851 of 2016

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kra 31.08.2016



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