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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 1301/2013

E.I DU PONT DE NEMOURS AND COMPANY Plaintiff
Through: Ms. Kirpa Pandit, Advocate.

versus

SAHIB SEEDS LIMITED & ANR Defendants
Through: Mr. Amit Saxena, proxy counsel for
Mr. Nikhil Singla, Advocate.

CORAM: JUSTICE S. MURALIDHAR

ORDER

09.09.2016

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1. The brief facts have been set out in the order dated 8th July 2013 passed by this Court while granting interim injunction. The relevant portion of the said order reads as under:

“Learned counsel for the plaintiff/ applicant submits that the plaintiff is manufacturing and selling insecticides namely **CHLORANTRANILIPROLE** (CTPR) which is a registered insecticide in the name of the plaintiff under the Insecticide Act, 1968. The plaintiff is not only the patent holder of this insecticides but also responsible for the use of it as the same is toxic in nature and thus without appropriate license or authorization no manufacture or sale of this insecticide is permitted. The plaintiff/ applicant has come to know that the defendants are manufacturing and selling insecticide products namely **KALIA**, **KALIA-185** as a by-product containing CTPR which they are as per law forbidden. Photocopy of the technical expert's opinion has also been enclosed which shows that samples of **KALIA-185** “a bio liquid extract pest controller” were found to contain 17.72 % CTPR.

On the basis of the averments in the plaint and the documents enclosed I am of the opinion that the plaintiff has made out a prima

facie case for ex parte ad interim injunction. The defendants, their directors, agents, distributors, representatives and assignees are hereby restrained from manufacturing or authorizing the manufacturing, or selling or offering for sale or marketing any product containing CTPR under the names such as KALIA, KALIA-185, COBRA or BLACK COBRA.”

2. Thereafter the Defendants entered appearance on 21st November 2013 and were granted time to file a reply to the application under Order XXXIX Rules 1 & 2 of the Code of Civil Procedure, 1908 (‘CPC’) and to file written statement in the suit. On 18th February 2014, the Joint Registrar (‘JR’) was informed that the written statement was not filed but the parties were exploring the possibility of settlement. On 23rd April 2014, it was noted that despite the Defendants being served on 19th October 2013, they had not file the written statement. On that date, none had appeared for the Defendants. The JR was also informed that the Defendants did not approach the Plaintiff for settlement.

3. There were as many as three adjournments after 23rd April 2014 to enable the parties to work out a settlement. On 24th November 2014, it was noticed that the settlement was not possible and the matter should proceed on merits. On that date a proxy counsel appeared for the counsel for the Defendants. The interim order passed on 8th July 2013 was made absolute on that date. After the above date, there were another four hearings till 4th November 2015, but none had appeared for the Defendants before the JR. On 4th November 2015, the JR was informed that settlement talks were again in progress.

4. Thereafter on 16th March 2016, the JR was again informed that settlement

talks had failed. None appeared for the Defendants on that date also. The matter was listed on 29th April 2016 before the JR and before the Court on 4th May 2016. On both occasions none appeared for the Defendants.

5. Today when the matter was called out, the learned counsel for the Plaintiff was present. On the side of the Defendants a proxy counsel appeared but he was unclear as to the name of the lawyer on whose behalf he was appearing. Therefore, the case was passed over. On the second call, another proxy counsel appeared and stated that he was appearing for Mr. Nikhil Singla, Advocate for the Defendants who was unwell.

6. The counsel for the Plaintiff points out that there have been numerous adjournments granted at the behest of the Defendants. During this entire period, they did not take steps to have the interim order vacated. She prays that the suit may be decreed in terms of the interim order which has been made absolute and that the Plaintiff does not wish to press for damages.

7. Indeed it appears that the Defendants have accepted the interim order passed by the Court in the matter and have made no attempt to have it vacated or modified. Further, the Plaintiff is not pressing for the relief of damages.

8. In that view of the matter, the suit is decreed in terms of prayer (a). The decree sheet be drawn up accordingly.

S.MURALIDHAR, J

SEPTEMBER 09, 2016/mg