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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 2047/2012 and I.A. No.12640/2012 (stay) & 17918/2012
(under Order 1 Rule 10(2) CPC read with Order 7 Rule 11 CPC by
defendants)

ABBOTT HEALTHCARE LTD Plaintiff

Through: Mr. Manav Kumar, Advocate.

versus

AJIT KUMAR JAISAWAL & ORS Defendants

Through: Mr. Sumit Kumar, Advocate for
defendant Nos.1 to 3.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **01.02.2016**

1. This suit is filed by the plaintiff against the three defendants, namely Sh. Ajit Kumar Jaisawal, partner of M/s Wincare Pharmaceuticals, Sh. Harsh Kumar Jaisawal, partner of M/s Wincare Pharmaceuticals and M/s Wincare Pharmaceuticals also trading as New A.K. & Sons Pharma.

2. The cause of action as per the plaintiff in the plaint is that the defendants are manufacturing 'Diclofenac Sodium and paracetamol preparations' with the trademark ASGIPYRIN and which is deceptively similar to the trademark ESGIPYRIN of the plaintiff for the same drug.

3. Counsel for the defendants states that defendant nos.1 and 2 have not and will not manufacture any drug under the trademark ASGIPYRIN or with any trademark deceptively similar to the plaintiff's registered trademark ESGIPYRIN inasmuch as defendant nos.1 and 2 state that they have never ever manufactured and will not manufacture any drug with any trademark deceptively similar to the trademark ESGIPYRIN of the plaintiff. Defendant nos.1 and 2 also state that they have nothing to do with M/s Wincare Pharmaceuticals and defendant nos.1 and 2 even as M/s Wincare Pharmaceuticals will not manufacture any drug having a trademark deceptively similar to the trademark ESGIPYRIN of the plaintiff. It is stated by the defendant nos.1 and 2 that they are doing business as New A.K. & Sons Pharma and not a business to manufacture drugs by the trademark deceptively similar to the trademark of the plaintiff ESGIPYRIN. Defendant nos.1 and 2 also state that since they have never manufactured nor are manufacturing the drug under any trademark deceptively similar to the trademark ESGIPYRIN of the plaintiff, defendants will also not use any packaging which is deceptively similar to the packaging of the plaintiff as stated in the present suit. Counsel for the defendant nos.1 and 2 states that

M/s New A.K. & Sons Pharma is not in any manner concerned or related to M/s Wincare Pharmaceuticals.

4. In view of the aforesaid statement given on behalf of the defendants, counsel for the plaintiff states that defendants on being bound by their statement, suit be disposed of accordingly in terms of the statement made on behalf of the defendants. This is accepted by the counsel for the defendants.

5. Accordingly, the defendants will be bound by their statement made by them through their counsel in the Court today and suit is accordingly disposed of. Decree be drawn up accordingly. Parties are left to bear their own costs.

VALMIKI J. MEHTA, J

FEBRUARY 01, 2016

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