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

+ **FAO(OS) 358/2015**

LUPIN LIMITED

..... Appellant

Represented by: **Mr.Anuj Sarma, Advocate**

versus

JOHNSON & JOHNSON LTD & ANR

..... Respondents

Represented by: **Mr.Deepak Gogia, Advocate**

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **04.04.2016**

1. Matter was being adjourned from time to time to enable the parties to settle. Dispute concerns the mark 'NUCYNTA' vs 'LUCYNTA' pertaining to an OPIOID pain reliever.
2. The respondent No.1 is the registered proprietor of the word 'NUCYNTA' in the United States of America and has applied for registration of the trade mark in India. The appellant is selling the same drug under the name 'LUCYNTA' in India.
3. The respondent No.1 has yet to enter the Indian market.
4. Vide impugned order dated February 27, 2015 the learned Single Judge has prima-facie found it to be a case of deceptive similarity and therefore has restrained the appellant from selling the drug under the trade

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mark 'LUCYNTA' or any other mark deceptively similar to respondent's No.1 trade mark 'NUCYNTA'.

5. Operation of the impugned order was suspended on July 13, 2015 when notice was issued in the appeal but the appellant was required to maintain a complete record of the product sold under the name 'LUCYNTA'.

6. We are informed that parties have entered into a settlement, formal execution of the documents is awaited. The settlement envisages a concurrent user of the respective trade marks with territory worked upon.

7. The appeal is therefore disposed of with consent noting as above, suspending the operation of the impugned order till the parties formally file an application in the suit for decree to be drawn up.

8. By way of abandoned caution it is observed that if for some reason settlement fails, the respondent No.1 would be at liberty to seek revival of the appeal.

9. No costs.

CM No.11794/2016

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

SANJEEV SACHDEVA, J.

APRIL 04, 2016

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