

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL APPEAL NO.88 OF 2017
IN
NOTICE OF MOTION NO.2681 OF 2016
IN
SUIT NO.798 OF 2016
WITH
NOTICE OF MOTION NO.1129 OF 2017
IN
COMMERCIAL APPEAL NO.88 OF 2017

Ajanta Pharma Limited ... Appellant
Vs.
Theon Pharmaceuticals Ltd. and another ... Respondents

Dr. V. V. Tulzapurkar a/w. Mr. Nikhil Sharma, Mr. Aasif Navodia and Mr. Asim Hazra i/b. W. S. Kane & Co. for Appellant.
Mr. Alankar Kirpekar a/w. Mr. Shekhar Bhagat i/b. MAG Letal for Respondent No.1-Original Defendant No.1.
Mr. V. Dhond, Senior Advocate a/w. Mr. Aashish Kamat and Mr. Darshan Mehta i/b. M/s. Dhruve Liladhar and Co. for Respondent No.2.

**CORAM : NARESH H. PATIL &
R. G. KETKAR, JJ.**

DATE : NOVEMBER 27, 2017

P.C. :

Learned Senior Counsel appearing for the appellant and the respondent No.2 tendered the "Consent Minutes of Order" dated 27.11.2017 running into 3 pages (5 paragraphs) along with the extract of the Minutes of the Meeting of the Executive Committee of Directors of Ajanta Pharma Limited held on 25.11.2017. The learned Counsel submit that the parties have settled the disputes in respect of the subject matter of the present Suit and the Appeal.

2. Consent Minutes of Order dated 27.11.2017 is taken on record and marked 'X' for identification. Paragraphs a, b and c of the Consent Minutes of Order read as under:

“a. Respondent No.2 agrees and undertakes that it shall not use the trademarks “FERINTA” and “INTAS FERINTAS”;

b. The Appellant agrees and undertakes that it has no objection to Respondent No.2 using the trademark “FERITAS” (with or without adjuncts, not limited to “XT”, “Z” and / or “Syrup”);

c. The Appellant agrees that Respondent No.2 may dispose off its existing stock (i.e. manufactured before 23rd November 2017) under the mark “INTAS FERINTAS” within 4 months from the date hereof.”

3. The learned Counsel appearing for the respondent No.1 is present. On instructions, he submits that the respondent No.1 herein (original defendant No.1) undertakes that it shall not manufacture (for defendant No.2 or any one else) goods bearing the Marks “FERINTA” or “INTAS FERINTAS”.

4. In view of the Consent Minutes of Order and the undertaking given by the defendant No.1, the learned Counsel appearing for the respective parties submit that the present Appeal as also the the pending Suit bearing Commercial Suit No.549 of 2016 pending on the file of the learned Single Judge of this Court may be disposed of.

5. We accept the undertaking given by the respondent No.1. After perusing the Consent Minutes of Order and after considering the subject matter of the settlement, we are satisfied that the dispute between the parties is lawfully settled in terms of the Consent Minutes of Order. The Appeal stands disposed of in terms of the Consent Minutes of Order. Commercial Suit No.549 of 2016 stands disposed of against the respondent No.2 in terms of the Consent Minutes of Order. The said

Suit stands disposed of against the respondent No.1 in terms of the undertaking given by the respondent No.1, as recorded above. On request, the Registry to refund Court Fees in accordance with the Rules.

6. All pending Suits / Motions, if any, stand disposed of accordingly.

(R. G. KETKAR, J.)

(NARESH H. PATIL, J.)

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