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

+ CS(COMM) 1656/2016 & I.A. Nos.15918/2016, 1841-1842/2017,
3687/2017

BIOGEN INTERNATIONAL GMBH & ANR Plaintiffs

Through: Mr. Aditya Gupta & Mr Utkarsh Srivastava,
Advocates.

versus

SUN PHARMACEUTICALS INDUSTRIES LTD & ANR

..... Defendants

Through: Mrs. Bitika Sharma & Mr. Vivek Ranjan,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

% **21.04.2017**

Learned counsel appearing on behalf of defendants invites my attention to the pleadings in I.A. No.1842/2017 and in particular, paragraph (I) (iv) & (v), which read as follows :-

“I. The present suit for infringement of suit patent is nothing but a quia timet action which has been instituted against the defendants merely on speculative grounds and conjecture inasmuch as:

- i.
- ii.
- iii.

iv. No act as defined under Section 48 of the Act, 1970 has been performed by the defendants so as to constitute infringement of the suit patents. The defendants further submit that they have no intention to commercially launch dimethyl fumarate till the term of the impugned suit patent; and

v. The defendants intend to use dimethyl fumarate only for R&D and regulatory purposes till the term of the impugned suit patent.”

A bare reading of the above shows that the defendants have admitted that they have no intention to commercially launch dimethyl fumarate, which is a chemical compound and is the subject-matter of the present suit, till the term of the suit patent, which exists in favour of the plaintiffs. It further shows that the defendants propose to use dimethyl fumarate, in accordance with law, as permitted only for regulatory and R&D purposes, during the term of the plaintiff's suit patent.

Learned counsel appearing on behalf of the plaintiffs states that in terms of the above undertaking furnished on behalf of the defendants, their prayer in the suit stands satisfied.

In view of the foregoing, the suit is disposed of as having been satisfied. Decree sheet be drawn accordingly.

SIDDHARTH MRIDUL, J.

APRIL 21, 2017
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