

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.12.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.446 of 2014
and O.A.Nos.541 and 542 of 2014

Cadila Healthcare Limited
 a Company registered under the
 Provisions of the Companies Act, 1956
 and having its registered office at
 'Zydu Tower', Satellite Cross Road
 Ahmedabad - 380 015
 and having Branch Office at
 First Floor, New No.24, Old No.16
 Dr.Subbarayan Nagar
 4th Street, Kodambakkam
 Chennai - 600 024
 Represented by Sr.General Manager [Legal]
 Mr.Mehul Pathak

.. Plaintiff

Vs.

1.Wallace Pharmaceuticals Private Limited
 3rd Floor, Dempo Trade Centre Building
 Patto Plaza, EDC Complex
 Panaji, Goa
 and also at
 B/307-312, Floral Deck Plaza
 Off Central MIDC Road
 Andheri [East]
 Mumbai - 400 093.

2.Acme Lifescience
 Near Baddi Industrial Area
 Village Katha
 Baddi
 Dist. Solan [H.P.] - 173 205.

.. Defendants

This Civil Suit is preferred, under Order VII Rule - 1 of Civil Procedure Code, 1908 read with Order IV Rule 1 of O.S Rules and Sections 27, 134 and 135 of the Trade Marks Act, 1999 Praying to;

a) grant a permanent injunction restraining the defendants, by itself, their servants, agents, distributors, or anyone claiming through them from manufacturing, selling, advertising and offering for sale using the plaintiff's registered Trade Mark **MEXATE** or any other mark including **MEXT 7.5 F** as such or with or without prefix or suffix in any pharmaceutical product or in any related goods manufactured and sold by the defendants or in any media and use the same in invoices, letters heads and visiting cards or by using any other trade mark which is in any way visually, or phonetically similar to the plaintiff's registered Trade Mark **MEXATE** or in any manner infringing the plaintiff's Registered Trade Mark No.520752.

b) grant a permanent injunction, restraining the Defendants, their Partners, Proprietors, Directors, their employees, agents, stockiest, dealers or others directly or indirectly involved, from in any manner using in relation to any medicinal or pharmaceutical preparation, in manufacturing or marketing the pharmaceutical product bearing the trademark "**MEXT 7.5 F**" or any other trademark which is deceptively or confusingly similar to the plaintiff's trademark "**MEXATE/MEXATE 7.5**" so as to pass off the defendants goods bearing the trademark "**MEXT 7.5F**" as and for the goods manufactured by the plaintiff;

c) direct and decree the defendants to deliver to the plaintiff all the goods, dies, labels, wrappers, packages, cartons, boxes, articles, literature and all other materials bearing reference whatsoever with respect to the offending trademark "**MEXT 7.5 F**" for destruction without compensation;

d) the defendants be ordered and directed to render true and faithful accounts of the profits illegally earned by the defendant by using

the deceptively similar and confusing trade name MEXT 7.5F and a decree for the said amount be passed in favour of the plaintiff against the defendants;

e) direct the defendants to pay to the plaintiff the costs to the suit and

f) pass such further or other order; as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Plaintiff : Ms.Revathy
for M/s.Gladys Daniel

For Defendants : Ms.Durga V Bhatt

JUDGMENT

Ms.Revathy, learned counsel representing the counsel on record for sole plaintiff and Ms.Durga V.Bhatt, learned counsel representing the counsel on record for both the defendants are before this Commercial Division.

2. Ms.Revathy, learned counsel representing the counsel on record for sole plaintiff submits that plaintiff has given instructions for withdrawal of this suit. Saying so, learned counsel has made an endorsement in the suit file which reads as follows:

'The plaintiff may be permitted to withdraw the suit as not pressed.

-sd/-

(for Counsel for Plaintiff)

17.12.2018.'

3. Learned counsel while reiterating the aforesaid endorsement submits that plaintiff is not insisting on refund of Court fee.

4. In the light of the endorsement and reiteration of the same, this suit is dismissed as withdrawn. Consequently, all interlocutory applications are closed. There shall be no order as to costs.

17.12.2018

Index : Yes/No

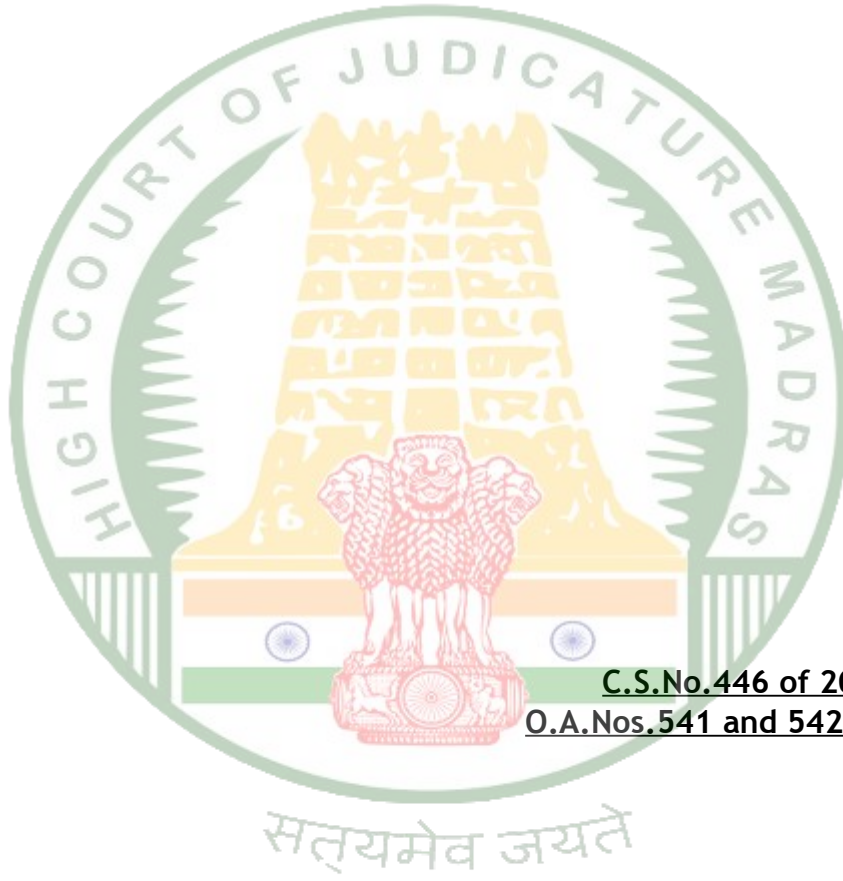
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M.SUNDAR, J.

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