

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CONTEMPT PETITION NO.34 OF 2011

IN

SUIT NO.2879 OF 2009

Wardex Pharmaceuticals Pvt. Ltd.)....Petitioners

V/s.

Biochem Pharmaceuticals Industries Ltd. & Ors.)....Respondents

Mr.Rohan Sawant a/w Ms.Poonam Teddu I/by Mahesh A.Mahadgut
for petitioners.

Mr.Zubin Behramkadin a/w Ms.Tanuja Liman I/by Avesh Kayser and
K.S.Pachoo for respondents.

CORAM : K.R.SHRIRAM,J

DATE : 12.6.2019

P.C.:-

CHAMBER SUMMONS NO.171 OF 2013

1. Chamber summons not listed on board. By consent taken
up for hearing.

2. Without prejudice to respondents' rights and contentions in
the contempt petition, chamber summons allowed in terms of prayer
clause-(a). Amendment to be carried out forthwith. Re-verification
dispensed with.

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3. Heard the counsel and also considered the affidavit-in-reply particularly of respondent no.6-S.G.Choudhary. Respondent no.1 is company, respondent nos.3 & 5 are parents of respondent nos.2 & 4 and are senior citizens. Respondent no.6 is the factory manager. Other respondents have adopted the affidavit of S.G.Choudhary. Respondent no.6 has explained the gap between, when the consent decree was passed and implementation of undertaking of defendant as recorded in the consent decree. Yes, there has been a lapse. There are certain points which I am unable to connect. At the same time, the explanation given in the affidavit-in-reply cannot be disregarded because to the affidavit, are annexed the documents which indicate respondents' intention to comply with the undertaking as recorded in the consent decree. There are also communications to the Drug Controller seeking withdrawal of the impugned names/trade marks.

4. In the circumstances, I am inclined to accept the explanation. Petition accordingly disposed.

5. In the rejoinder which Mr.Sawant tenders across the bar and copy of which has been served on respondents, there is an averment that respondent no.1-company have manufactured and sold

goods bearing the impugned art work of approximate value of Rs.63 lakhs during the period the order was passed and the goods were withdrawn from the market.

6. Respondents have filed a sur-rejoinder which is not on record but copy has been served upon petitioner in which this allegation has not been denied. Mr.Behramkamdin states it could not have been denied because respondents have disclosed this figure and it was a pure mistake. Respondents shall give donation of Rs.3,00,000/- to National Defence Fund (NDF), State Bank of India, Institutional Division, Parliament Street, New Delhi, Account No.11084239799-www.pmindia.nic.in. This amount shall be paid within 4 weeks and the compliance affidavit shall be filed in this court with a copy to petitioners' advocate.

(K.R.SHRIRAM,J)