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

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+ **FAO(OS) (COMM) 81/2019**

NATCO PHARMA LTD

..... Appellant

Through: Mr Sanjeev Sindhvani, Senior
Advocate with Ms Rajeshwari H., Mr
Saif Rahman Ansari, Advocates.

versus

NOVARTIS AG & ORS

..... Respondents

Through: Mr Gopal Subramaniam, Senior
Advocate with Mr Hemant Singh and
Ms Mamta Jha, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

09.04.2019

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Caveat 371/2019

1. Since the learned counsel for the Respondent have put in appearance, the caveat is discharged.

CM 16591/2019 (exemption)

2. Allowed, subject to all just exceptions.

FAO(OS) (COMM) 81/2019 & CMs 16590/2019 and 16592/2019

3. Mr Sanjeev Sindhvani, learned Senior Counsel appearing for the Appellant / Defendant makes a statement, on instructions, that the statement made earlier on behalf of the Defendant before the learned Single Judge on 6th February, 2019, as recorded in the order of that date, may be restored.

4. In that view of the matter, this Court clarifies that the impugned order dated 27th March, 2019 of the learned Single Judge should not be construed as expressing any opinion on the report of the expert appointed by the Court or on the merits of the contentions of either of the parties in relation to the issues that arise for consideration in IA 1803/2019. The Court notes that in fact the learned Single Judge is yet to form an opinion one way or another on the report of the expert and is yet to dispose of IA 1803/2019, which has been set down for further hearing on 16th April, 2019 at 3.15 pm.

5. Learned counsel for both parties before this Court agree that they will file the written notes of arguments pertinent to IA 1803/2019 by that date and submit to any time-schedule that the learned Single Judge may fix for conclusion of arguments in the said IA.

6. In that view of the matter, the statement on behalf of the Defendant, as recorded in the order dated 6th February, 2019 is restored in the suit. Consequently, the injunction granted by the learned Single Judge in paragraph 8 of the impugned order will not be operative. It is, however, clarified that the right of the Plaintiff (Respondent herein) to bring to the notice of the learned Single Judge any breach committed by the Appellant/Defendant of the undertaking, as recorded in the order dated 6th February, 2019, and the right of the Appellant/Defendant to answer such plea, is left open.

7. The appeal is disposed of in above terms. The pending applications are also disposed of.

8. *Dasti* under the signatures of the Court Master.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 09, 2019
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