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

+ **CS(COMM) 1131/2016**

**F HOFFMANN-LA ROCHE LTD & ANR** ..... Plaintiffs

Through: Mr. Pravin Anand, Advocate with Mr.  
Shrawan Chopra, Mr. N. Mahabir and  
Ms. Prachi Agarwal, Advocates.

versus

**FRESENIUS KABI ONCOLOGY LIMITED & ANR** ..... Defendants

Through: Mr. Saurabh Banerjee, Advocate with  
Mr. Ashutosh Ranga, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

% **29.05.2019**

**I.A. 8125/2019 (U/o 23 R 3 CPC)**

1. The present suit is for permanent injunction restraining infringement of Indian Patent No. 196774, damages, rendition of accounts, delivery up, etc. against the Defendants.

2. This is a joint application on behalf of the parties under Order 23 Rule 3 CPC.

3. It is stated that the parties have amicably resolved the disputes regarding Indian Patent No. 196774 in terms of para 2 Sub Clause (i) to (v) of the application, which reads as under.

(i) The Parties have arrived at an out of Court settlement and entered into a Settlement Agreement dated 17<sup>th</sup> April 2019 ("said Agreement") recording the terms thereof, by virtue of which the Defendants have agreed to pay an amount to the Plaintiffs which constitutes full and final settlement of all disputes in respect of Indian Patent No. IN 196774.

(ii) The Defendants herein acknowledge the Patent Rights of the Plaintiffs in the Indian Patent No. 196774 filed on 13<sup>th</sup> March 1996 for Erlotinib Hydrochloride and accepts that the Indian Patent No. IN 196774 was a validly granted patent during its term till the expiry of the said patent on 13<sup>th</sup> March, 2016.

(iii) The Defendants undertake to withdraw the revocation petition bearing number ORA/33/2012/PT/DEL pending before the Intellectual Property Appellate Board and the Defendants further undertake to file a petition to withdraw the revocation petition within 3 weeks from the date of disposal of the present application, before the Intellectual Property Appellate Board and intimate the Plaintiffs regarding the same upon filing the petition to withdraw the revocation petition.

(iv) The Plaintiffs herein undertake that they or any of their affiliates shall not initiate other proceedings against the Defendants or their Affiliates alleging infringement of Indian Patent No. 196774.

(v) The Parties hereby undertake not to initiate, directly or indirectly, any further proceedings against each other in relation to or arising out of or in connection with the disputes contained in the instant proceedings being settled hereby.

4. The application is duly signed by the authorized representatives of the

parties. The authorized representatives on behalf of Plaintiff Nos. 1 and 2 are present in the Court.

5. The application is duly supported by the affidavits of the authorised representatives and signed by the learned counsels who are present before the Court today.

6. The counsels support the Settlement Agreement and seek decree in terms thereof.

7. I have perused the compromise/settlement arrived at between the parties and find the same to be lawful.

8. A decree is passed, in terms of the Settlement dated 24<sup>th</sup> May 2019, which along with the Annexure thereto shall form part of the decree sheet.

9. Decree sheet be prepared.

10. A certificate entitling the plaintiff to refund of court fees be issued and handed over to the counsel for the plaintiff.

11. The application is allowed in above terms.

**SANJEEV NARULA, J**

**MAY 29, 2019**

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