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

+ **CS(OS) 552/2016, IA Nos.13416/2016 (u/O.XXXIX R-1 & 2 CPC) & 14150/2017(u/O.VI R-17 & u/O.VIII R-1A CPC)**

CD PHARMA INDIA PRIVATE LIMITED Plaintiff

Through: Mr. Sujoy Kumar with
Mr. Krishna Vijay Singh &
Mr. Pradyuman Sewak, Advs.

versus

PROF. DR. CLAUDIO DE SIMONE & ANR Defendants

Through: Mr. J. Sai Deepak with Mr. G.Nataraj,
Mr. Avinash K. Sharma &
Mr. Ashutosh Nagar, Advs. for D-1 & 2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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27.02.2019

1. The plaintiff has instituted the suit against defendants, claiming the following reliefs:

“48. That in view of the facts and circumstances of the present case as stated above, the Plaintiff most respectfully pray that this Hon’ble Court may kindly be pleased to pass the following decrees in favour of the Plaintiff and against the Defendants:

(a) *A decree of declaration that Defendant No.1 and 2 have no authority to represent the Plaintiff Company as its agent or otherwise in any matter, contract, proceeding, application or in respect of any other action of the Plaintiff Company in any manner whatsoever;*

(b) A decree of declaration that any acts or deeds done by the Defendant No.1 and 2 on behalf of the Plaintiff Company, without express authority of the Board of Directors of the Plaintiff Company are null and void and are not binding on the Plaintiff Company.

(c) A decree for permanent injunction against Defendant No.1 to 2 from representing the Plaintiff Company in any manner or entering into any agreement on behalf of Plaintiff Company;

(d) An order for costs of the present proceedings; and

(e) Any other and further order as this Hon'ble Court deems fit and proper in the facts and circumstances of the present case."

2. Summons of the suit were ordered to be issued and vide *ex parte ad interim* order dated 27th October, 2016 it was clarified that any act of commission or omission indulged in by the defendants in the name of the plaintiff or for and on behalf of the plaintiff, after the filing of the suit, shall be subject to further orders of the Court. The said interim order has continued till now.

3. The defendants have filed their joint written statements to the plaint.

4. Application of the defendants for amendment of the written statement and for filing additional documents and application of the plaintiff for interim relief are for consideration.

5. However, after hearing the counsels for some time, it transpires that the counsel for the defendants does not have any objection to a decree in terms of prayer paragraph 48(a) and (c) being passed forthwith.

6. The counsel for the plaintiff states that prayer paragraph 48 (b) perhaps is not properly worded and the defendants appear to be construing

the same as the plaintiff seeking a declaration also with respect to the actions of the defendants during the time they were the Directors of the plaintiff company. The counsel for the plaintiff states that it may be recorded that the declaration claimed in paragraph 48 (b) is only with respect to actions of the defendants of the date after they ceased to be Directors of the plaintiff company.

7. The counsel for the defendants, on enquiry, states that the defendant no.2 ceased to be a Director of the plaintiff company with effect from 1st June, 2016 and the defendant no.1 so ceased to be a Director of the plaintiff company with effect from 30th September, 2016.

8. The counsel for the plaintiff, on enquiry, states that according to the plaintiff also the defendants ceased to be Directors from the aforesaid dates.

9. The counsel for the defendants states that he is authorized on behalf of the defendants to state that the defendants, after ceasing to be the Directors as aforesaid, have not done any act, deed or thing on behalf of the plaintiff company or in the name of the plaintiff company.

10. The counsels have also informed that the plaintiff, besides this suit has also instituted CS(COMM) No.912/2018 against the defendants with respect to the actions of the defendants, while being the Directors of the plaintiff company.

11. Accordingly, a decree is passed in favour of plaintiff and against the defendants, in terms of prayer paragraph 48 (a) and (c) aforesaid and both the defendants are bound to the statement made on their behalf by their counsel as contained in paragraph 9 above.

12. It is made clear that the aforesaid will not prejudice the rights and contentions of any of the parties in CS(COMM) No.912/2018.
13. The parties are left to bear their own costs.
14. Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

FEBRUARY 27, 2019
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