

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

O.S.A.No.35 of 2020

and

C.M.P.Nos.1465 of 2020, 1470 & 4090 of 2020

- 1.Centaur Pharmaceuticals Pvt. Ltd.,
Centaur House, Shantinagar, Vakola,
Santacruz (E), Mumbai - 400 055
rep. by its Directors through
Ms.Rakhi Kadam Authorised Signatory
- 2.Kibow Biotech Inc.,
4781, West Chestar Fire,
Newtown Square,
PA 19073, United States of America
rep. by its Directors through
Ms.Rakhi Kadam Authorised Signatory ... Appellants
- Vs
- 1.LA Renon Health Care Pvt. Ltd.,
207-208 ISCON Elegance,
Circle P, Prahalad Nagar Cross Roads,
SG Highway, Ahmedabad - 380 015
rep. by its Directors
- 2.Stanford Laboratories Pvt. Ltd.,
5th Floor, Caddie Commercial Tower,
Aerocity, New Delhi - 110 037
rep. by its Directors ... Respondents

Appeal preferred under Order XXXVI Rule 1 of O.S. Rules r/w
Clause 15 of Letters Patent against the order dated 13.12.2019
made in O.A.No.1082 of 2019 in C.S.No.684 of 2019.

Original Application praying that this Court pleased to
grant interim injunction restraining to respondents their
directors, shareholders, Men, Agents, Partner, Associate,

Officer, representative, Servant and all other persons acting on respondents behalf or in their interest from in any manner infringing the Applicants Patent No.224100 and or manufacturing marketing, selling products infringing Patent No.224100 whether under the name 'cudo' 'cudoforte' and/or 'probigress' or otherwise.

Prayer in CMP No.4090 of 2020 in O.S.A.35/2020:

Petition praying to clarify that the observation in Paragraph 3 of the order dated 29/01/2020 does not preclude the single Judge from taking W.A.No.282/2020 as a preliminary to other applications and does not require that A.No.282/2020 may be taken up only after OA 1082/2019 finally disposed.

For Appellants .. Mr.Vineet Subramani

For Respondents.. Mr.P.H.Arvinth Pandian,
Sr. Counsel
for Mr.T.Sai Krishnan for R1
Mr.Adarsh Ramanujam for R2

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This appeal is preferred by the appellants, aggrieved over the order passed by the learned single Judge in O.A. No.1082 of 2019 in C.S.No.684 of 2019 by modifying the earlier order granted to the effect that the respondents shall be permitted to sell the stock in hand, which has been specified apart from maintaining accounts which is to be filed in the Court.

2.Admittedly, the application is pending consideration, which is actually posted tomorrow (30.01.2020) for hearing before the learned single Judge. Thus, nothing has been expressed on the merits of the case.

3.In such view of the matter, we are not inclined to interfere with the order passed. Suffice it to observe that it is well open to the parties to raise all their contentions which we expect to be taken into consideration by the learned single Judge at the time of passing orders in O.A.No.1082 of 2019. Therefore, we request the learned single Judge to take up O.A. No.1082 of 2019 and vacate stay application filed by the respondents and decide the same expeditiously. We make it clear that the issue both on facts and law are expected to be dealt with by the learned single Judge at the time of disposal of the applications.

4.At this stage, learned counsel appearing for the appellants submits that on the affidavit filed by the first respondent, the appellants may be given an opportunity to file his affidavit. Learned senior counsel appearing for the first respondent does not have any objection for the same. Therefore, we are granting a week's time to the appellants to file affidavit to the one filed by the first respondent. We request the learned single Judge to take up the matter after the aforesaid period.

5.With the above observation, the Original Side Appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1cc to Mr.Vineet Subramani, Advocate Sr.6365

+1cc to Mr.T.Sai Krishnan, Advocate Sr.6740

O.S.A.No.35 of 2020

srg 30/09/2020

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