

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

O.S.A.No.102 of 2020
& C.M.P. Nos.4688 and 4692 of 2020

- 1.Centaur Pharmaceuticals Pvt Ltd.,
Centaur House, Shantinagar, Vakola,
Santacruz (E), Mumbai 400 055
Rep. By its Directors through Ms.Rakhi Kadam
Authorized Signatory.
- 2.Kibow Biotech Inc.
4781, West Chester Pike, Newtown Square,
PA 19073, United States of America,
Rep. By its Directors through Ms.Rakhi Kadam
Authorized Signatory. .. Appellants

Vs

- 1.La Renon Health Care Pvt. Ltd.,
207 - 208 ISCON Elegance, Circle P,
Prahlaad 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

PRAYER : Appeal filed under Order XXXVI Rule 1 OS Rules r/w
Clause 15 of Letters Patent against the order dated 14.02.2020
in O.A.No.1082 of 2019 in C.S. (Com.Div.) No.684 of 2019.

Prayr in C.S.No.684 of 2019:

Original Application praying that this Court pleased to
grant interim injunction restraining the 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.

For Appellants : Mr.V.Lakshminarayanan for
Mr.Vineet Subramani

For Respondents : Mr.P.H.Aravindh Pandian,
Senior Counsel for R1
Mr.Adarsh Ramanujam for R2

JUDGMENT

(Delivered by M.M.SUNDRESH,J)

In this appeal, a very limited technical issue is involved. In fact, the submission is only by way of clarification.

2. By our order dated 29.01.2020 in O.S.A.No.35 of 2020, we requested the learned Single Judge dealing with the application to dispose it of expeditiously within the time period mentioned thereunder. We may appositely refer the following paragraphs:-

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.

3. It appears that the appellants has also filed a contempt petition (A.No.282 of 2020), inter alia, alleging that the injunction granted has been violated by the respondents. Therefore, the question raised before the learned Single Judge was as to whether our order would mean the disposal of the contempt petition (A.No.282 of 2020) along with the application for injunction and vacate stay or the disposal of the contempt petition (A.No.282 of 2020) prior or after the said applications. Under those circumstances, the present appeal and the petition for clarification have been filed.

4. As we observed earlier, the issue involved is extremely technical in nature. Inasmuch as we already requested the learned Single Judge to dispose of the application at an early date, it would only be appropriate to decide the contempt petition (A.No.282 of 2020) along with the injunction and vacate application. This would solve the entire issue. We may also note that the subject matter of the earlier appeal itself pending the injunction application filed.

5. In such view of the matter, we request the learned Single Judge to dispose of the contempt petition (A.No.282 of 2020), injunction and the vacate applications within a period of two weeks from the date of receipt of a copy of this judgment.

6. The Original Side Appeal stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

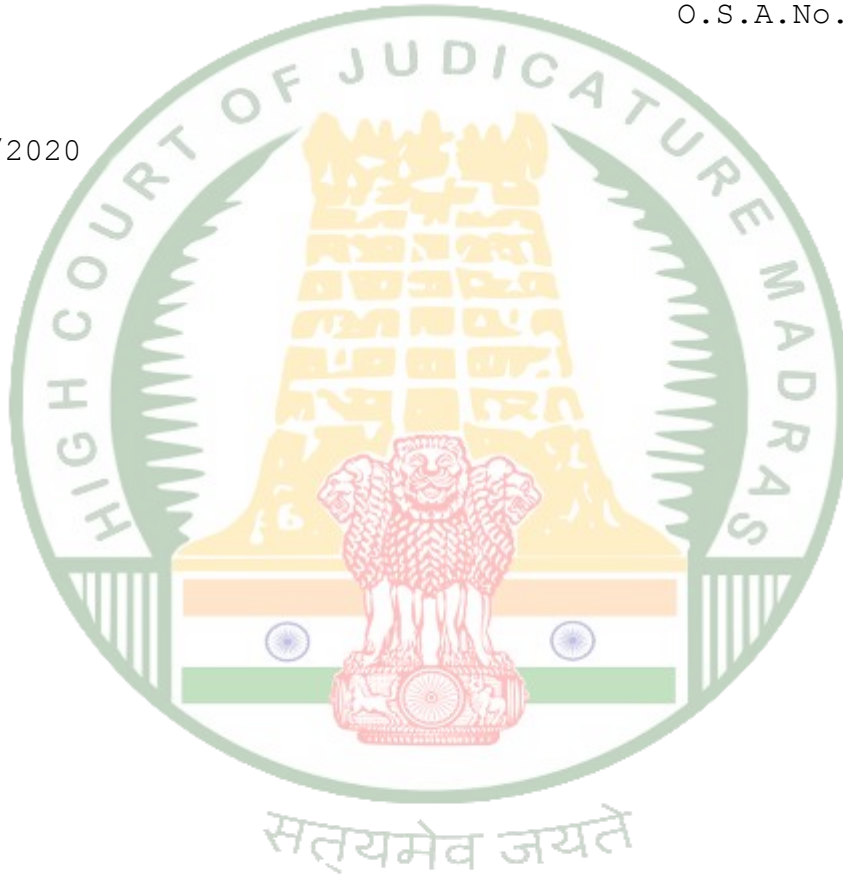
To

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

+1cc to Mr.T.Saikrishnan, Advocte Sr.18379
+1cc to Mr.Vineet Subramani, Advocate Sr.17568

O.S.A.No.102 of 2020

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