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

Decided on 18th November, 2020

+ **CS(COMM) 58/2020 and I.A. 1646/2020, I.A.1647/2020,
I.A.7813/2020**

SUN PHARMA LABORATORIES LIMITED Plaintiff
Through Mr. Sachin Gupta and Ms.
Rajnandini Mahajan, Advs.

versus

M/S. GLOBEX HEALTHCARE & ORS. Defendants
Through Mr. Aayushman Gauba and Ms.
Gunjan Chhabra, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)

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18 .11.2020

(Video-Conferencing)

C. HARI SHANKAR, J.

CS(COMM) 58/2020

1. The dispute between the parties, in the present case, stands settled with the timely intervention of the Delhi High Court Mediation and Conciliation Centre. The Settlement Agreement, dated 8th

October, 2020, drawn up under its aegis has been placed on record.

The terms of the settlement, as contained therein, read thus:

i. The Defendants above named hereby recognizes the Plaintiff to be the proprietor of the trade mark MONTEK having the exclusive right to the use of the aforementioned trade mark in respect of medicinal and pharmaceutical preparations;

ii. The Defendants undertake to refrain themselves, their directors, assignees in business franchisees, licensees, distributors, dealers and agents from using the mark MONTEX/MONTEX-LC or any other mark as may be deceptively similar to the Plaintiff's trade mark MONTEK;

iii. The Defendants state that there are no existing stocks of finish products under the impugned mark MONTEX/MONTEX-LC available with them, except for any stocks that may be in the retail channel(s) supplied prior to the date of the order of ex-parte ad interim injunction by the Defendant No. 1. The details of the last batch numbers of the pharmaceutical preparations manufactured by the Defendants under the trademark MONTEX/MONTIBEX is as under:

S.No	Product	Last Batch Number	Manufacturer	Manuf acture Date	Expiry Date
1)	Montex-LC (Tablets)	GA160001	Innova Captab Limited	01/2020	12/2021
2)	Montex-LC (Syrup)	MXL-1902	Apple Formulations (P) Limited	10/2019	09/2021
3)	Montibex-LC (Syrup)	MBC 2001	Apple Formulations Private Limited	04/2020	03/2022
4)	Montibex-LC	GA-160027	Innova Captab Limited	08/2020	07/2022

	(Tablets)				
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iv. The Defendants state that they will destroy all stationery, packaging, promotional and publicity material, brochures and pamphlets, labels under the impugned mark MONTEX/MONTEX-LC as recovered from the premises of Defendant No. 2 and 3 during the execution of Local Commission on 18.02.2020, in the presence of the Plaintiff's representative at no cost of travel and allied expenses of boarding lodging to the Defendants, after giving a week's advance intimation qua the same;

v. The Defendants agree to change the mark to MONTRAZ/MONTRAZ LC to which the Plaintiff has no objection;

vi. The Defendants undertake to donate INR 51000/- (Rupees Fifty-One Thousand) to "Innovative Educational & Welfare Society-Coexistence" at L-25, Lajpat Nagar – II, New Delhi – 110024 in lieu of damages within 4 weeks;

vii. The Defendants had after the passing of the ad-interim ex-parte order in the present suit had manufactured one batch of the same pharmaceutical preparation under the trademark MONTIBEX/MONTIBEX-LC which since has been disposed off and the Defendants have no stock of the said goods under the trademark MONTIBEX and undertakes not to use the same in future.

viii. The Defendants hereby agree that the Plaintiff shall not be liable in any manner whatsoever, whether legal or otherwise arising from the goods provided by the Defendants under the impugned mark and the Defendants shall indemnify and hold harmless the Plaintiff from any cost or claim of damages arising from it;

ix. The abovementioned undertakings have been tendered by Mr. Gaurav Khanna on behalf of all Defendants and the same shall be binding on the Defendants, its assignees in business franchisees, licensees, distributors, dealers and agents for all times to come.

x. In view of the undertakings given by the Defendants and the terms of settlement arrived at between the parties, the Plaintiff does not wish to press for relief for costs and rendition of accounts as prayed for in the plaint. It is also prayed that the court fee may be refunded to the Plaintiff, considering the present compromise between the parties.

xi. It is, therefore, respectfully prayed that this Hon'ble Court may be pleased to record the present memo of compromise and pass a decree in terms of plaint prayer clause 28(a) and (b) and direct refund of full court fee to the Plaintiff.

xii. The parties agree that they shall appear before the Hon'ble court during virtual hearing to make their statements in terms of the present Settlement Agreement.

xiii. That in the light of the aforesaid terms, the First Party will be at liberty to move an appropriate application, under Section 16 of the Court Fees Act, 1870 read with Section 89 of CPC, 1908 and/or make a prayer to the Hon'ble court for refund of the Court Fee."

2. Learned counsel for the parties, as well as the parties themselves in person, are present during the proceedings.

3. In view thereof, as the dispute stands settled, the suit is decreed, in terms of the aforesaid Settlement Agreement, which shall be treated as a part of this order. The parties shall remain bound by the covenants of the Settlement Agreement.

4. The suit stands decreed accordingly. Decree-sheet be drawn up by the Registry.

5. As the suit has been decreed without contest, the plaintiff would be entitled to refund of the court fee. The Registry will do the needful

accordingly.

IAs 1646-47/2020 and I.A. 7813/2020

1. In view of the order passed in the suit, these applications stand disposed of.

C. HARI SHANKAR, J.

NOVEMBER 18, 2020

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