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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 10.06.2020

FAO(OS) (COMM) 67/2020, CM APPL. 12232/2020, CM APPL. 12233/2020 & CM APPL. 12234/2020

SHIVAM PHARMA & ORS.

.....Appellants

versus

ASTRAZENECA AB & ANR.

.....Respondents

Advocates who appeared in this case:

For the Appellants : Mr. Sai Deepak, Advocate with Mr. Guruswamy Natraj, Advocate

For the Respondents : Mr. Sudhir Chandra, Sr. Advocate with Mr. Pravin Anand, Ms. Vaishali Mittal, Mr. Siddhant Chamola and Ms. Devyani Nath, Advocates

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE TALWANT SINGH

JUDGMENT

TALWANT SINGH, J. (via Video Conferencing)

This appeal has been taken-up for hearing by way of Video-Conferencing on account of COVID-19.

1. Present appeal has been filed by five appellants, who were defendants in the suit filed by the present respondents before Ld. Single Judge. The appellants have challenged order dated 26th May 2020 passed by Ld. Single Judge in IA number 3904/2020. The

operative portion of the order dated 26th May 2020 is reproduced here under:

“9. Till the next date, the defendants are restrained from selling or in any manner dealing with the product comprising the compound DAPAGLIFLOZIN either manufactured by NATCO Pharma Ltd. or any other entity under the brand DAPNAT or any brand or product that infringes Patent Nos. IN205147 or IN 235625.”

2. The learned counsel for the respondents are appearing through videoconferencing on advance notice of the appeal.

3. Notice. Learned counsel appearing for the respondents accept notice on behalf of the respondents.

4. The appeal has been taken up for hearing with the consent of both the parties. Part arguments have been heard on behalf of the appellants. The learned counsel appearing for the appellants has brought to the notice of this court para number 10 and 12 of the impugned order and has submitted that the submissions made therein on behalf of NATCO Pharma Ltd. were recorded without consulting the said company and the company in question as well as the learned senior advocate appearing for the said company had stated so in the

communications addressed to the counsel appearing for the appellants in the present matter.

5. In our view, if the contention of the learned counsel for the present appellants, who were defendants before the learned single judge as well as the contention of NATCO Pharma Ltd., is that the submissions made on behalf of that company were made without any instructions, in that eventuality NATCO Pharma Ltd. as well as the learned senior advocate appearing for defendants in this case before the learned single judge are at liberty to move an appropriate application bringing this to the notice of the concerned court within 3 working days and the respondents herein are at liberty to file reply to the said application and the application will be taken up for hearing on the next date of hearing fixed before the Ld. Single Judge on 1st July 2020.

6. Learned counsel for the appellants has further submitted that he had already filed the written statement as well as the reply to the interim application moved by the plaintiffs before the Ld. Single Judge and this fact has been recorded in Para 4 of the impugned order.

7. It has been further submitted that the contentions raised by the present appellants were reproduced in para numbers 5 and 6 of the impugned order but instead of dealing with the said contentions in detail, Ld. Single Judge has passed the order of injunction as extracted in para number 1 above against the present appellants.

8. Counsel for the parties, after some arguments, agree that the best course available at this stage is that the interim application filed by the plaintiffs before the Ld. Single Judge can be taken up for hearing on the next date of hearing itself. Both the learned counsel also agree to put a limit on the time required by them to address arguments on the interim application. It seems that both the parties are interested in expeditious disposal of the interim application.

9. In view of the above, it is appropriate to pass following directions in the present appeal:

“A. The parties shall complete the pleadings in the main suit, counter-claim as well as on the interim applications before the Ld. Single Judge before the next date of hearing.

B. The Ld. Single Judge is requested to start hearing the arguments on the interim application from the next date itself and no unnecessary adjournments may be given.

C. Learned senior counsel appearing for the plaintiffs has submitted that he needs approximately 2 hours to submit his arguments and one more hour after the arguments on behalf of defendants for rebuttal.

D. Learned counsel appearing for the defendants has submitted that he needs approximately 2 hours to make his submissions.

E. It is expected that the learned counsel appearing for the parties shall adhere to the time limits as prescribed above.

F. Ld. Single Judge may then decide the interim application/ applications as expeditiously as possible.”

10. The appeal is disposed of in above terms. No order as to costs.

11. A copy of this judgment be uploaded on the website of this Court.

**TALWANT SINGH
(JUDGE)**

**SIDDHARTH MRIDUL
(JUDGE)**

JUNE 10, 2020
dn/as