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

+ **CS(COMM) 201/2017**

SHOGUN ORGANICS LTD Plaintiff

Through: Mr. Tahir A.J., Advocate.

versus

GAUR HARI GUCHHAIT & ORS Defendants

Through: Mr. Manoj Kumar Sahu, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **29.01.2020**

1. Pursuant to the order dated 06.12.2019, defendant no.2 has filed an affidavit dated 25.01.2020 disclosing the sales figures of "D-TRANS ALLETHRIN". Although the said affidavit is not on record, learned counsel states that it was filed vide diary no. 70775/2020 dated 25.01.2020, and a copy has been produced. Learned counsel will take steps to have the affidavit placed on record within one week.

2. It has been stated in the said affidavit of defendant no.2, that the sales value of the said product for the concerned period is ₹135,58,22,879/-. The affidavit is also supported by a certificate of the auditor, as directed.

3. Defendant nos. 1, 3, 4 and 5 have also filed affidavits in terms of order dated 06.12.2019, stating that they have not made any sales of the product independently.

4. In these circumstances, the decree granted by the order of this Court dated 14.08.2019 [and affirmed by Division Bench vide judgment

dated 11.10.2019 in RFA(OS)(COMM) 41/2019], in addition to the decree for permanent injunction, will be a decree for 5% of the sum disclosed in the affidavit of defendant no.2, i.e. ₹6,77,91,143.95/-.

5. By the said judgment, the plaintiff was also granted actual costs of the suit. The plaintiff has filed an affidavit dated 16.12.2019 under diary no. 53577/2020. Although the said affidavit has been returned under objections, a copy has been produced. Learned counsel for the plaintiff is directed to have the same placed on record within one week. In the said affidavit, a statement of costs has been annexed, which discloses expenditure of ₹15,70,000/- towards legal expenses and costs in the suit. This is supported by a certificate of the plaintiff's chartered accountant. However, learned counsel for the defendant points out that two of the amounts claimed, amounting in sum to ₹3,42,000/-, in fact relate to the expenses in the appeal, for which the Division Bench did not pass any order of costs. Learned counsel for the plaintiff accepts this position and submits that the costs be confined to ₹12,28,000/-.

6. Decree sheet be prepared in terms of paragraph 47 of the judgment dated 14.08.2019. As far as the compensation is concerned, the decree will be in the amount of ₹6,77,91,143.95/-, being 5% of ₹135,58,22,789/- As far as costs are concerned, the decree will be in the amount of ₹12,28,000/-.

7. The suit stands disposed of in these terms.

PRATEEK JALAN, J

JANUARY 29, 2020/ 'pv'/s
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