

\$~19&23

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 1125/2016 & CC(COMM) 33/2017, CCP(O) 65/2012 &
IA No.12075/2012

BRISTOL-MYERS SQUIBB COMPANY & ORS Plaintiffs
Through: Mr. Pravin Anand, Ms. Prachi
Agarwal and Ms. M. Dubey, Advs.

Versus

M ADINARAYAN & ANR Defendants
Through: Ms. Rajeshwari H. and Mr. Tahir
A.J., Advs.

AND

CS(COMM) 199/2018 & CC No.9/2015
BRISTOL-MYERS SQUIBB COMPANY & ANR Plaintiffs
Through: Mr. Pravin Anand, Ms. Prachi
Agarwal and Ms. M. Dubey, Advs.

Versus

V.C. BHUTADA & ORS Defendants
Through: Mr. Gautam Kumar, Adv. for D-1&2.
Ms. Rajeshwari H. and Mr. Tahir
A.J., Advs. for D-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **13.02.2020**

**IA No.2067/2020 in CS(COMM) No.1125/2016 & IA No.1988/2020 in
CS(COMM) 199/2018 (both u/O XXIII R-3 CPC)**

1. The three plaintiffs namely (i) Bristol-Myers Squibb Company, (ii) Bristol-Myers Squibb India Pvt. Ltd., and (iii) Bristol Myers Squibb Holdings Ireland in CS(COMM) No.1125/2016 and the two plaintiffs namely Bristol-Myers Squibb Company and Bristol-Myers Squibb India Private Ltd., in CS(COMM) No.199/2018 on the one hand and the defendant Natco Pharma Limited in both the suits and the defendant No.1 M Adinarayan in CS(COMM) No.1125/2016 on the other hand have filed the

same application under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 in both the suits.

2. The counsel for the plaintiffs in both the suits and the counsel for the defendants aforesaid support the applications and seek disposal of the suits in terms thereof.

3. I have perused the compromise arrived at and find the same to be lawful.

4. A decree is passed, in favour of the plaintiffs and against the defendants in CS(COMM) No.1125/2016, in terms of IA No.2067/2020 therein which shall form part of the decree sheet, leaving the parties to bear their own costs.

5. Counter-Claim(COMM) No.33/2017 in CS(COMM) No.1125/2016 is dismissed as withdrawn.

6. Decree sheet in CS(COMM) No.1125/2016 and CC(COMM) No.33/2017 be drawn up.

7. CS(COMM) No.1125/2016 and CC(COMM) No.33/2017 stand disposed of.

8. CS(COMM) No.199/2018, insofar as against defendant No.3 Natco Pharma Limited therein is disposed of.

9. CS(COMM) No.199/2018 survives only against defendant No.2 Shilpa Medicare Limited therein. The name of defendant No.1 V.C. Bhutada is informed to have been already deleted.

10. However the counsels state that an attempt at settlement of the same also shall be made.

11. I have enquired from the counsel for Shilpa Medicare Limited, that once Natco Pharma Limited has accepted the patent of the plaintiffs and agreed not to infringe the same, what is the right of Shilpa Medicare Limited to independently market its product in infringement of the subject patent.
12. The counsel for Shilpa Medicare Limited seeks time.
13. List on 18th February, 2020 before the Court instead of before the Joint Registrar.

RAJIV SAHAI ENDLAW, J.

FEBRUARY 13, 2020
'bs'..