

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION (L) NO. 23745 OF 2021
IN
COMM IP SUIT (L) NO. 23737 OF 2021
WITH
COURT RECEIVER'S REPORT NO. 483 OF 2021**

(Order corrected as per speaking to the minutes of order dtd.27/1/2022.)

Socomed Pharma Private Limited	...Applicant
In the matter between	
Socomed Pharma Private Limited	...Plaintiff
Versus	
Askon Health Care Pvt. Ltd. & anr.	...Defendants

SANTOSH
SUBHASH
KULKARNI

Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2022.01.28
14:56:09 +0530

Mr. Alankar Kirpekar, i/b Shekhar Bhagat, for the Applicant/
Plaintiff.
Mr. Gautam Panchal, a/w Pratiksha Thakur, i/b Gautam &
Co., for the Defendants.

**CORAM: N. J. JAMADAR, J.
DATED : 20th JANUARY, 2022
(Video Conferencing)**

PC:-

1. Heard the learned Counsels for the parties.
2. Mr. Panchal, the learned Counsel for the defendants submits that he has instructions to submit to decree in terms of prayer Clauses (a) and (b).
3. Mr. Kirpekar, the learned Counsel for the plaintiff, submits that the plaintiff is not averse to dispose of the suit on the basis of the statement made on behalf of defendant nos.1 and 2 that

they submit to decree in terms of prayer Clauses (a) and (b), provided the defendants pay costs for a worthy cause.

4. Mr. Panchal, the learned Counsel for defendant nos.1 and 2, on instructions, submits that the defendants are ready to pay costs of Rs.1,00,000/- to the TATA Memorial Hospital, Parel, Mumbai.

5. In view of the aforesaid statement, the suit stands decreed on the basis of admission, in terms of prayer Clauses (a) and (b) which read as under:

“a. That this Hon’ble Court be pleased to pass an order and decree of perpetual injunction of this Hon’ble Court thereby restraining Defendants by themselves, through their Directors, Partners, Proprietor, Servants, Agents, Manufacturers, Stockiest, Exporters and/or otherwise howsoever from in any manner using impugned packaging and blister packaging being Exhibit ‘F’ hereto and/or any other deceptively similar packaging which is an obvious imitation and/or colourable imitation and/or slavish imitation to Plaintiff’s copyright contained in the artistic work as shown in Exhibit ‘B’ to the plaint; so as to infringe Plaintiff’s copyright contained in the artistic work as shown in Exhibit ‘B’ hereto in any manner whatsoever.

b. That this Hon’ble Court be pleased to pass an order and decree of perpetual injunction of this Hon’ble Court thereby restraining Defendants by themselves, through their Directors, Partners, Proprietor, Servants, Agents, Manufacturers, Stockiest, Exporters and/or otherwise howsoever from in any manner using impugned Mark “SAVQUININE 100” and/or impugned packaging and blister packaging being Exhibit ‘F’ hereto, and/or any other mark or word and/or any other packaging which is/are deceptively similar in any manner whatsoever to the Plaintiff’s Trade Mark “SAMQUINE 100” and/or its artistic work, get up, colour scheme, lay out as shown in Exhibit “B’ hereto so as to pass off and/or enable others to pass off Defendants’ pharmaceutical preparation as and for that of plaintiff.”

6. The defendants shall deposit costs of Rs.1,00,000/- with TATA Memorial Hospital, Parel, Mumbai, and furnish the receipt within a period of three weeks from today.

7. Mr. Panchal further submits that the defendants will destroy the samples seized by the Court Receiver and furnish photographs thereof to the plaintiff, within a period of one week.

The statement made on behalf of defendant nos.1 and 2, in the context of prayer Clause (d), is accepted.

8. The plaintiff is entitled to refund of court fees in accordance with the Rules.

9. Clause XIV Leave Petition is made absolute.

10. Court Receiver's Report No.483 of 2021 stands disposed of.

11. The Court Receiver stands discharged without passing accounts, subject to payment of charges, expenses and costs of the Court Receiver by the plaintiff.

12. In view of the disposal of the suit, the Interim Application (L) No.23745 of 2021, also stands disposed of.

[N. J. JAMADAR, J.]