



C.S.No.94 of 2002

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.S.No.94 of 2002

Om Pharma
22, Rue Du Bois-Du-Lan,
CH-1217, Meyrin 2/Geneva,
Switzerland,
Rep. by its Power of Attorney,
Mr.R.R.Nair.

... Plaintiff

Vs.

1. Y.Jaganmohan
Proprietor,
M/s.Mano Pharmaceuticals,
No.265, Poonamallee High Road,
Aminjikarai, Chennai - 600 029.
2. The Madras Pharmaceuticals,
137-B, Old Mahabalipuram Road,
Karapakkam, Chennai - 600 094.
3. M/s.Mano Pharmaceuticals Pvt. Ltd.,
No.265, Poonamallee High Road,
Aminjikarai, Chennai - 600 029.
Rep. by its Director.

[R3 impleaded as per order dated 06.08.2002
in A.No.2232 of 2002 in C.S.No.94 of 2002

... Defendants

Plaint filed under Order IV Rule 1 of the Madras High Court (OS) Rules



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Order VII Rule 1 of CPC read with Sections 27, 28, 29, 105 and 106 of the Trade and Merchandise Marks Act 1958, praying for a judgment and decree as follows :

a) a perpetual injunction restraining the defendants, their distributors, stockists, servants, agents, retailers, representatives or any person claiming under them from in any manner manufacturing, marketing, selling, offering for sale, stocking, advertising, directly or indirectly dealing in medicinal preparations under the trademark 'DOBIUM' or any other trademark which is identical with and/or deceptively similar to the trademark 'DOXIUM' of the plaintiff so as to infringe the plaintiff's trademark 'DOXIUM' registered under No.546943.

b) a perpetual injunction restraining the defendants, their distributors, stockists, servants, agents, retailers, representatives or any person claiming under them from in any manner manufacturing, marketing, selling, offering for sale, stocking, advertising, directly or indirectly dealing in medicinal products under the trademark 'DOBIUM' or any other trademark which is identical with and/or deceptively similar to the trademark 'DOXIUM' of the plaintiff so as to pass off and/or enable others to pass off the defendant's products as and for the products of the plaintiff or in any other manner whatsoever.

For Plaintiff : Mr.R.Parthasarathy

For D1 : Mr.S.Srinivasan



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For D2 : Mr.T.D.Selvan Babu
For D3 : No Appearance

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JUDGMENT

The learned counsel for the plaintiff seeks permission of this Court to withdraw this Civil Suit. He has also filed a memo dated 17.02.2022 to the effect that, in the present suit, after listing of the matter in 2021, since the 1st and 3rd defendants have not entered appearance despite completion of substituted service, the plaintiff had taken steps to ascertain if the cause of action for the present suit survived. On verification, it has transpired that the defendants have discontinued use of the mark DOBIUM and supply of the product has been closed. Hence, it is prayed that the plaintiff may be permitted to withdraw the present suit with liberty to institute a fresh suit against the defendants in the event of the defendants recommencing their infringing activity as a fresh cause of action.

2. The aforesaid memo dated 17.02.2022 is recorded by this Court. In view of the permission sought for and the memo filed by the learned counsel for the plaintiff, this Civil Suit is dismissed as withdrawn with liberty to the plaintiff to file a fresh suit against the defendants in the event of recommencement of infringing activity by the defendants. No costs.

22.02.2022

raja
Index : yes/no
Internet : yes/no



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raja

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