

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO.13382 OF 2022
WITH
LEAVE PETITION NO.99 OF 2022
WITH
COURT RECEIVER REPORT NO.145 OF 2022
IN
COMMERCIAL IP SUIT NO.283 OF 2022

Sun Pharmaceutical Industries Limited ... Applicant / Plaintiff
Vs.
Quest Laboratories Pvt. Ltd. ... Respondent / Defendant

Mr. Hiren Kamod a/w. Mr. Vaibhav Keni, Ms. Neha Iyer, Mr. Rohan Lopes, Mr. Prem Khullar and Mr. Anees Patel i/b. Legasis Partners for Applicant / Plaintiff.

Mr. H. R. Patel, Master (Adm.), Court Receiver, High Court, Bombay.

CORAM : MANISH PITALE, J.

DATE : APRIL 03, 2023

P.C. :

. By order dated 05.05.2022, this Court granted *ex-parte* ad-interim reliefs in favour of the plaintiff. The order was executed and the Court Receiver Report No.145 of 2022 is on record. The defendant was served. Affidavit of service was also placed on record, but there is no appearance on behalf of the defendant.

2. In the light of the defendant being served, learned counsel for the plaintiff is pressing for consideration of the leave petition for combining the cause of action of infringement with that of passing-off.

3. The leave petition is considered. In the interest of justice, the leave petition is allowed, particularly to avoid multiplicity of proceedings.

4. As the leave petition is allowed, learned counsel for the plaintiff is pressing for grant of ad-interim reliefs as regards the cause of action of passing-off also. He places reliance on paragraph 25 of the plaint in

order to press the aforesaid relief.

5. This Court has perused the said paragraph and the other material on record. It is found that the plaintiff has indeed made out a *prima facie* case for grant of ad-interim relief in respect of the cause of action of passing-off also.

6. Accordingly, in addition to the ad-interim reliefs granted earlier, there shall be ad-interim relief in terms of prayer clauses (c) and (d) of the application, which read as follows:-

“(c) that pending the hearing and final disposal of the suit, the Defendant by itself, its directors, proprietors, partners, servants, agents, stockists, distributors, dealers, franchisees, licensees, assigns, predecessors and all persons claiming through and/or under it or acting on its behalf be restrained by a temporary order and injunction of this Hon’ble Court from manufacturing, selling, advertising, distributing, marketing, exhibiting for sale or otherwise dealing in medicinal or pharmaceutical preparations or like goods or similar goods under the impugned trade mark FEANAC PLUS or impugned packaging / trade dress or any other trade mark or packaging / trade dress deceptively similar to the Plaintiff’s well-known trade mark FENAK / FENAK PLUS and/or said Packaging / trade dress, so as to pass off the Defendant’s impugned goods or like goods or similar goods as and for the Plaintiff’s well-known goods or in any other manner whatsoever;

(d) that pending the hearing and final disposal of the suit, the Defendant be ordered and directed to disclose on an affidavit the quantity of goods / quantum of sales made by the Defendant of the impugned goods bearing the impugned trade mark FEANAC PLUS or impugned packaging / trade dress shown at Exhibit “H” to the plaint, and deposit the same in the Court and also disclose the details of the whole-sellers, traders, stockists and distributors of the impugned goods, the sale and purchase data, books of accounts, ledgers, sales bills, invoices, purchase orders;”

7. List the application for hearing on 23.06.2023.

8. The ad-interim reliefs granted earlier and the ad-interim reliefs granted today shall continue to operate until further orders.

(MANISH PITALE, J.)