

Sharayu Khot.

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

INTERIM APPLICATION NO. 4876 OF 2022

IN

COMMERCIAL IPR SUIT NO. 533 OF 2022

WITH

LEAVE PETITION NO. 3 OF 2023

WITH

COURT RECEIVER'S REPORT NO. 374 OF 2022

Sun Pharma Laboratories Limited

...Applicant/
Plaintiff

Versus

TEETHYS Inc. & Anr.

...Defendants

Mr. Ashutosh Kane, Ms. Amruta Thakur i/by W.S. Kane & Co. for the
Plaintiff.

Mr. V.K. Sawant, ASO, Court Receiver.

CORAM : R.I. CHAGLA J

DATE : 14 June 2023

ORDER :

1. Mr. Ashutosh Kane, the learned Counsel appearing for the Applicant/Plaintiff has referred to the *exparte ad-interim* order dated 21st October 2022 passed by this Court by which *ad-interim*

relief had been granted in terms of prayer clauses (a) and (c) of the Interim Application. Thereafter, the Court Receiver appointed by this Court through the additional Special Receiver executed the commission and during which Defendant No. 2 has been served.

2. Mr. Ashutosh Kane has also tendered three Affidavits of Service, one is dated 22nd November 2022 and other two dated 13th December 2022. The Affidavits of Service show that the Plaintiff's Advocate's notice dated 20th November 2022 which has enclosed the papers and proceedings in the above Suit and the said *exparte ad-interim* order has been served on the Defendants. The Affidavits of Service are taken on record.

3. Considering that the Defendants have been served, Leave Petition under Clause XIV of the Letters Patent is made absolute in terms of prayer clause (a).

4. I am satisfied with the reasons given in the *exparte ad-interim* order dated 21st October 2022, that a case of passing off is made out and the only reason for not granting passing off by the *exparte ad-interim* order was that the Leave Petition has been filed.

Accordingly, *ad-interim* relief in terms of prayer clause (b) of the Interim Application is granted, which reads thus:-

“(b) that pending the hearing and final disposal of the suit, the Defendants by themselves, their proprietor, partners, directors, servants, agents, stockists, dealers, distributors and all persons claiming through them be restrained by a temporary order and injunction of this Hon’ble Court from manufacturing and/or marketing and/or selling and/or advertising and/or trading in and/or otherwise dealing in medicinal and pharmaceutical preparations bearing the impugned trade mark ‘DOMPRAZ” or any other trade mark containing the word DOMPRAZ or any other word deceptively similar thereto or any other trade mark identical with or deceptively similar to the Plaintiff’s said well-known trade mark SOMPRAZ so as to pass off or enable others to pass off the Defendants’ impugned goods as and for the Plaintiff’s said well-known goods or in any other manner whatsoever.”

5. *Exparte ad-interim* order dated 21st October 2022 and this *ad-interim* order shall continue till further orders.

6. Interim Application shall be placed for hearing on 18th

July 2023.

7. Notice of this order shall be served on the Defendant and Affidavit of Service shall be filed on or before next date.

[R.I. CHAGLA J.]