

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

INTERIM APPLICATION NO. 1076 OF 2023

WITH

LEAVE PETITION NO. 06 OF 2023

IN

COMMERCIAL IP SUIT NO. 88 OF 2023

Sun Pharmaceutical Medicare Ltd.

...Applicant/Plaintiff

Versus

Live Well Healthcare & Ors.

...Defendants

- Ms. Sumana Roychowdhury i/by W.S.Kane & Co., for Applicant/Plaintiff.
- Mr. Vijay D. Pawar, Clerk, representative of the Court Receiver, is present.

CORAM : MANISH PITALE, J

DATE : 28th MARCH, 2023.

P. C. :

1. By order dated 03rd January, 2023, this Court granted *ex-parte* ad-interim reliefs in favour of the Plaintiff, in the context of cause of action of infringement and Receiver was appointed.

2. The order was executed and the Court Receiver's Report is on record.

3. The Defendants were served in the matter.

4. Despite service, the Defendants have not appeared before this Court. As the Defendants have been served, the learned Counsel appearing for the Plaintiff is pressing for grant of the Leave Petition filed under Clause XIV of the Letters Patent for combining the cause

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of action of infringement with that of passing off. In the interest of justice, the Leave Petition is allowed, particularly to avoid multiplicity of proceedings.

5. On the Leave Petition being allowed, the learned Counsel for the Plaintiff is pressing for grant of ad-interim reliefs for the causes of action of passing off also. In that regard, the learned Counsel for the Plaintiff relied upon paragraph no. 13 of the plaint.

6. This Court has perused the same and also material placed on record and it is found that a strong *prima facie* case is indeed made out by the Plaintiff for grant of further ad-interim reliefs also.

7. In light of the above, in addition to the ad-interim reliefs granted earlier, there shall be ad-interim relief in terms of prayer clause (b), which reads as follows :

“(b) that pending the hearing and final disposal of the suit, the Defendants by themselves, their directors, proprietor, partners, servants, employees 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 “LETROVAL” and/or any other trade mark

containing the word “LETROVAL” or any other word deceptively similar thereto and/or any other trade mark identical with or deceptively similar to the Plaintiff’s said well-known trade mark “LETOVAL”, so as to pass off or enable others to pass off the Defendants’ impugned goods as and for the Plaintiff’s said well-know goods or in any other manner whatsoever;”

8. List for further consideration on **26th June, 2023**.
9. The ad-interim reliefs granted earlier and the ad-interim relief granted today shall continue to operate till the next date of listing.

(MANISH PITALE, J.)