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C.S. No.1012 of 1998

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.11.2023

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.S. No.1012 of 1998

Eupharma Laboratories Ltd.

.. Plaintiff

/versus/

Brawn and Burk Pharmaceuticals Pvt. Ltd.

.. Defendant

Prayer: Civil Suit has been filed under Order IV, Rule 1 of the Original Side Rules and Order VII Rule 1 of Code of Civil Procedure read with Section 27, 105 and 106 of the Trade and Merchandise Marks Act 1958 and Section 55 and 62 of the Indian Copyright Act, 1957 prays for a judgment and decree:

a)granting a permanent injunction restraining the defendant, their men, servants, agents or anyone claiming through or under them from in any manner infringing the plaintiff's Trademark "MALOXINE" by using the offending Trademark "MALOXINE" or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the plaintiff's Trademark "MALOXINE" either by manufacturing or selling or exporting or offering for sale or in any manner advertising the same;

b)granting a permanent injunction restraining the defendant, their men, servants, agents or anyone claiming through or under them from in



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any manner passing off their pharmaceutical products as that of the plaintiff's by using the offending Trademark "MALOXINE" as and for the celebrated pharmaceutical products of the plaintiff's with the Trademark "MALOXINE" either by manufacturing or selling or exporting or offering for sale or in any manner advertising the same;

c)granting a permanent injunction restraining the defendant, their men, servants, agents or anyone claiming through or under them from in any manner infringing the plaintiff's copyright over the artistic work in colour scheme, getup and layout in the plaintiff's MALOXINE cartons, by using the offending MALOXINE cartons with identical colour scheme getup or layout;

d)directing the defendant to render a true and faithful account of the profits earned by them through the sale of pharmaceutical products bearing the offending trademark and the trading style "MALOXINE" and directing payment of such profits to the plaintiff's by way of damages;

e)directing the defendant to surrender to the plaintiff the entire stock of unused offending goods with Trademark "MALOXINE" together with offending cartons blocks and dyes for destruction;

f)directing the defendant to pay the plaintiff's the costs of the suit.

For Plaintiff : Mr.Prasanna Venkat for
Mr.A.Prabhakara Reddy

For defendant : Mr.M.V.Venkateshan



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J U D G M E N T

Learned counsel for the plaintiff has reported no instructions in this matter since the plaintiff Company has been wound up. The suit is of the year 1998. Till date, the Liquidator has not entered appearance on behalf of the plaintiff. Learned counsel for the defendant is present. Since the suit is a very old suit, it can now be inferred that the plaintiff is not interested in prosecuting the suit. Accordingly, this suit is dismissed for non prosecution. No costs.

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ABDUL QUDDHOSE, J.

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