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C.S.No.43 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

C.S.No.43 of 2020

Reckitt Benkiser Healthcare India Private Limited,
Having its registered office at
Plot No.48, Institutional Area,
Sector-32,
Haryana-122001

... Plaintiff

Vs.

Cipla Limited,
Cipla House,
Peninsula Business Park,
Ganpatrao Kadam Marg,
Lower Parel,
Mumbai-400 013

... Defendant

Prayer: The Civil Suit has been filed under Order VII Rule 1 of C.P.C., read with Order IV Rule 1 the Original Side Rules, pleased to grant a judgment and decree of:

(a) The Plaintiff be awarded damages to the tune of Rs.1,01,000,00/- for disparagement, denigration and tarnishing of its goodwill and reputation by the defendant by its impugned advertisement ;



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(b) Permanent injunction restraining the defendant, its directors, principals, proprietor, partners, officers, employees, agents, distributors, franchisees, representatives and assigns from issuing or telecasting the impugned advertisement or in any other manner disparaging the goodwill and reputation of the plaintiff and its product sold under the brand MOOV in any other advertisements and in all media whatsoever including the electronic media, social media and/or print media or making comparison, importing direct or indirect reference to pain removing products, thereby conveying a message to the public that pain removing products including the MOOV branded product of the plaintiff are ineffective and useless or in any other manner whatsoever denigrating the pain removing products including the plaintiff's MOOV branded product;

(c) Permanent injunction restraining the defendant, its directors, principals, proprietor, partners, officers, employees, agents, distributors, franchisees, representatives and assigns from issuing or telecasting the impugned advertisement, in any language or issuing any other advertisement which is in any manner disparaging the goodwill and reputation of the plaintiff and its product sold under the brand MOOV in any other advertisements and in all media whatsoever including the electronic media, social media and/or print media ;

(d) Permanent injunction restraining the defendant, its directors, principals, proprietor, partners, officers, employees, agents, distributors, franchisees, representatives and assigns from using the depiction of the plaintiff's product or any other product deceptively similar to that of the



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plaintiff's in its advertisement or in any other manner disparaging the goodwill and reputation of the plaintiff and its product sold under the brand MOOV;

(e) Permanent injunction restraining the defendant, its directors, principals, proprietor, partners, officers, employees, agents, distributors, franchisees, representatives and assigns from using any other indicia whatsoever to associate with/depict the plaintiff or its products in its advertisements issued in any and all media whatsoever including the electronic media;

(f) The plaintiff be additionally awarded punitive and exemplary damages against the defendant;

(g) Costs of the suit be awarded to the plaintiff.

For Plaintiff : M/s.R.Saravanakumar

For Defendant : Mr.Roshan Balasubramanian

JUDGMENT

Alleging that the goodwill and reputation of the plaintiff have been disparaged and tarnished by the defendant through their advertisement, the plaintiff has filed a suit seeking damages and a permanent injunction.



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2. During the pendency of the suit, the parties entered into a compromise and the Joint Compromise Memo has been filed by them. The terms of settlement are as below:

“6. That the Defendant undertakes to permanently refrain from using the Objectionable Portion in the Impugned Advertisement.

7. Furthermore, in the interest of settling the matter amicably, in light of the assessment under the complaint outcome (titled Sun Pharmaceutical Industries Limited-Volini) dated October 26, 2023 by Advertising Standards Council of India (ASCI), the Defendant hereby agrees and undertakes to refrain from using the claim "Goes to the root cause"/ "Jad se dard" ("Claim") in relation to its topical analgesics, containing active pharmaceutical ingredient diclofenac under the brand OMNIGEL, subject to final determination of the said ASCI order before a court of competent jurisdiction. In lieu thereof, the Defendant undertakes to 1) not make use of the Claim in any new marketing or promotional material in any media with respect to the product



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OMNIGEL from the date of filing of the Memorandum of Compromise 2) and within a period of six (6) months, the Defendant will ensure the removal of the Claim from all marketing and advertising material in all media with respect to the product OMNIGEL, controlled by the Defendant.

8. In light of the aforementioned undertakings by the Defendant, the Plaintiff hereby agrees to forego the claims for damages in the present suit.

9. The present Application shall dispose of all the disputes between the parties thereto with respect to and/or ancillary to the present suit, and the parties shall remain bound by the terms of the present terms.

10. Both parties agree that they shall not, directly or indirectly, at any point of time, at the time of execution or in the future, directly or indirectly make, use or publicize the contents of the present settlement/compromise entered between the parties by way of publication/circulation in any newspaper,



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pamphlet, or publicity material and/or through any other means, whether print or electronic form.

11. The Plaintiff and the Defendant agree that all the terms and conditions laid out in the present Memorandum of Compromise are fair and reasonable and have been entered into with a full appreciation of its various clauses and implications.

12. This Memorandum of Compromise and compliance with it shall not operate or be construed as an admission by either party of any liability, misconduct or wrongdoing whatsoever against the other party or any party released herein and shall not be construed as an admission of a violation of the rights of any party, or as a violation of any law, rule, regulation, or ordinance.

13. Each of the parties has participated in the drafting and negotiation of this Memorandum of Compromise. Accordingly, for all purposes, this Settlement Application shall be deemed to have been drafted jointly by the



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parties.

14. The present Memorandum of Compromise before this Hon'ble Court has been executed by Manoj Singh Bisht, the authorized signatory of the Plaintiff, and M S Ananthasayanam, the Authorized Signatory of the Defendant and Cipla Health Limited both. Copy of the authorisation documents in favour of Manoj Singh Bisht and MS Ananthasayanam to sign the present Memorandum of Compromise are being filed along with the present Memorandum of Compromise.

15. The terms of this Memorandum of Compromise shall be binding on both the Parties, including their legal heirs, successors, assignees, liquidators, transferees, nominees, agents and any other persons acting for or on behalf of the Parties.”

3. In view of the terms of the settlement, the suit is disposed of accordingly. A compromise decree is passed based on the above terms of settlement. There shall be no order as to costs.



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DR.G.JAYACHANDRAN, J.

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