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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 635/2021 & I.A. 16298/2021, I.A. 6311/2023**

AVEO PHARMACEUTICALS PVT LTD .

.....Plaintiff

Through: Mr. Sachin Gupta, Mr. Ajay Kumar,
Mr. Rohit Pradhan, Ms. Prashansa
Singh and Mr. Adarsh Agarwal,
Advocates
Mob: 9811180270
Email: info@litlegal.in

versus

MG LIFECARE LLP & ORS.

.....Defendants

Through: Mr. Chander Shekhar Patney,
Advocate for defendant No.1.
Mob: 9810024608
Email: cspatney@gmail.com
Mr. Inderdeep Singh, and Mr.
Ravinder Jeet Singh Walia,
Advocates for defendant No.2.
Mob: 9810388646
Email: inderdeep.ids@gmail.com
Mr. Virender Pratap Singh Charak,
Ms. Shubhra Parashar, Advocates for
D-3.
Mob: 9891695077
Email:
virendersinghcharak@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

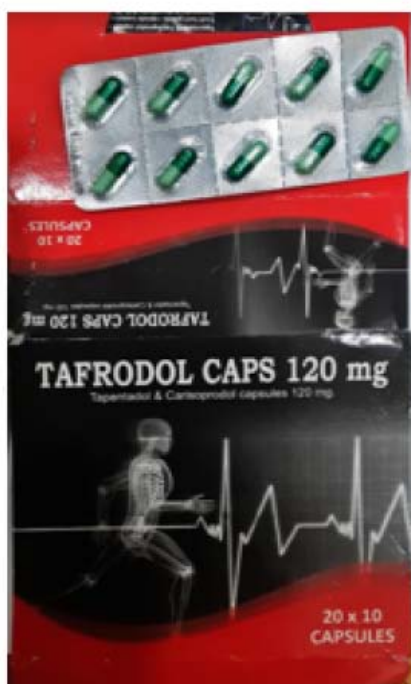
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1. The present suit has been filed seeking permanent injunction restricting the defendants in respect of plaintiff's registered trademark 'TAFRODOL' since the defendants' marks TAPRADOL-XX and 'TAPRODOL', are deceptively similar to the plaintiff, which is the basis of filing the present suit.
2. The comparison of the competing products, as given in the plaint, is as under:

Plaintiff's product



Defendant's product



3. Today, learned counsel appearing for the plaintiff points out to the written statement dated 27th April, 2022. In the said written statement, defendant no. 1 has stated, as under:



“xxx xxx xxx

1.The defendant no. 1 has neither sold the impugned trade mark in question and has no intention to market or sell the same in future.

xxx xxx xxx”

4. Likewise, defendant no. 2 in the written statement dated 29th April, 2022, has stated, as under:

“xxx xxx xxx

The defendant no. 2 has neither sold medicine under the impugned trade marks in question and has no intention to market or sell the same in future.

xxx xxx xxx”

5. Learned counsel appearing for the plaintiff has also drawn the attention of this Court to the reply filed on behalf of the defendant no. 2 to the application being I.A. 8326/2022, wherein, the defendant no. 2 has stated, as follows:

“xxx xxx xxx

7. That the contents of para no.7 of the application is admitted to the extent that the defendant no.2 had exported the medicines assignment in the year September 2020. However, it is pertinent to mention in this regard that the defendant No.2 had marketed the above said mark similar to the TAFFERADOL in the year 2020 much before filing of the present suit and had exported the same. However, the manufacturer of the mark at that point of time was sent a legal notice by the plaintiff for infringement and passing off mark of the plaintiff mark and the defendant No.2 immediately had stopped marketing the said mark since then and had not exported any consignment of the mark similar to the mark in questions since the receiving of that notice by the manufacturer.

xxx xxx xxx”

6. Learned counsel appearing for the plaintiff further points out to the averments made in Para 14 of the plaint, wherein, it is stated that the defendants are related and carrying on impugned activities jointly. Para 14



of the plaint, reads as under:

“xxx xxx xxx

14. Defendant No. 1 namely, MG Lifecare LLP, is a Limited Liability Partnership having its registered address at 474, 4F, Aggarwal Cyber Plaza II, Netaji Subhash Place, Pitampura, New Delhi-110034. Defendant No. 2 namely, PRG Pharma Pvt. Ltd. is a company under the Companies Act, 2013, having its registered address at SCO-444, First Floor, Motor Market, Manimajra, Chandigarh-160101 and Defendant No. 3 namely, Om Biomedic Pvt. Ltd. is a company under the Companies Act, having its registered address at 134/5 Raipur Lane, HTM Road, Near Sec 1 and 4, Hisar, Haryana, 125005. Defendant No. 1 and 2 are engaged in the marketing of the impugned medicine, whereas, Defendant No. 3 is engaged in the manufacturing of the impugned medicine. The Defendants are related and carrying on the impugned activities jointly. The Plaintiff calls upon the Defendants to disclose the details of other persons/ entities involved in the unlawful activities of manufacturing and selling of impugned products under the impugned mark.

xxx xxx xxx”

7. At this stage, learned counsel appearing for the plaintiff further submits that he wishes to delete defendant no. 3 from the array of parties, so that the suit can be disposed of in favour of the plaintiff, in view of the undertaking and statement, given by defendant nos. 1 and 2.

8. At oral request of learned counsel appearing for the plaintiff, defendant no. 3 is deleted from the array of parties.

9. Let amended memo of parties be filed by the plaintiff, within a period of one week from today.

10. At this stage, learned counsel appearing for defendant no. 1 submits that no infringing products were found from the premises of defendant no. 1 by the Local Commissioner. He further submits that defendant no. 1 has neither dealt in the infringing products, nor has any intention to deal with the infringing products, in future.



11. He further submits that defendant no. 1 did not have any GST number at the time of filing of the present suit.
12. Be that as it may, this Court notes the fact that the defendants in their written statement have categorically stated that they have neither used nor shall use the infringing mark. This Court further considers the fact that defendant no. 2 in the reply to *I.A. 8326/2022*, had admitted to exporting the product under the infringing name. Further, this Court notes the submission made by learned counsel appearing for the plaintiff, that he does not press the prayer for cost and damages.
13. Considering the aforesaid facts and circumstances of the present case, the present suit is decreed in favour of the plaintiff, and against defendant nos. 1 and 2, in terms of clauses (a) to (c) of Prayer Clause, Para 29 of the plaint.
14. Let decree sheet be drawn up.
15. The present suit, along with the pending applications, is accordingly disposed of.

MINI PUSHKARNA, J

OCTOBER 7, 2024

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