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

+ **FAO(OS) (COMM) 235/2024**

ZYDUS LIFESCIENCES LIMITED

.....Appellant

Through: Mr. Dushyant Dave, Senior Advocate with Ms. Bitika Sharma, Ms. Vrinda Pathak, Ms. Sandhya Kukreti, Mr. Rajnish Kumar and Ms. Soujanya, Advocates.

versus

F - HOFFMANN - LA ROCHE AG & ANR.Respondents

Through: Mr. Arvind Nigam, Senior Advocate, Mr. Sandeep Sethi, Senior Advocate with Mr. Pravin Anand, Mr. Shrawan Chopra, Ms. Prachi Agarwal, Mr. Achyut Tewari, Mr. Agnish Aditya and Ms. Riya Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

15.10.2024

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CAV 513/2024

Since learned counsels for the caveators/respondents have entered appearance, the caveat stands discharged.

CM APPLs. 60612/2024, 60613/2024 (for exemptions)

Allowed, subject to all just exceptions.

These applications stand disposed of.

FAO(OS) (COMM) 235/2024 & CM APPL. 60610/2024 (stay),



CM APPL. 60611/2024 (leave to file additional documents)

1. The appellant is aggrieved by the order dated 09 October 2024 passed by the learned Single Judge which reads as follows:-

“1. Vide separate judgment pronounced today, IA No. 33509/2024 of the plaintiffs is dismissed.

2. At this stage, the learned counsel for the plaintiffs states that as the interim order has been continuing since the past almost three months, this Court may continue the interim order earlier granted for some more time to enable the plaintiffs to take their remedy in accordance with law.

3. Though the said prayer has been opposed by the learned counsel for the defendant, however, considering that the defendant was under an injunction by virtue of the earlier order dated 09.07.2024 passed by this Court for almost three months, I do not see any reason for not granting a period of two weeks extension to enable the plaintiffs to take appropriate remedy in accordance with law.

4. In the interest of justice, the interim order dated 09.07.2024 is continued for a further period of two weeks from today, i.e., 23.10.2024.

5. Renotify before the roaster bench for further proceedings on 02.12.2024.”

2. As is evident from the record, by a separate judgment which had been pronounced on that day itself on IA No. 33509/2024, the prayer for interim injunction was refused. It is only thereafter and taking on board a request made on behalf of the plaintiff, that the learned Judge proceeded to frame directions for the earlier injunction dated 09 July 2024 which was operating in the suit to remain in operation for a further period of two weeks.

3. In our considered opinion, once IA No. 33509/2024 had come to be dismissed on merits and after contest, there was clearly no justification for the learned Judge to revive an ad interim injunction which operated in the suit.



4. In view of the aforesaid, we find ourselves unable to sustain the order impugned.

5. The appeal is accordingly allowed. The impugned order dated 09 October 2024 is hereby set aside.

6. This order, however, shall be without prejudice to the rights and contentions of the respondents in any appeal that they may choose to institute if aggrieved by the principal decision passed on IA No. 33509/2024.

7. It is clarified that we have not examined the merits of the order that the learned Single Judge has passed on IA No. 33509/2024.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

OCTOBER 15, 2024/vp