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

INTERIM APPLICATION NO. 3192 OF 2025
IN
COMMERCIAL IP SUIT NO. 188 OF 2025

Glenmark Pharmaceuticals Ltd. ...Plaintiff.

Versus

Bhesaja Remedies Pvt. Ltd. ...Defendant.

Mr. Anand Mohan, Mahesh Mahadgut and Kaivalya Shetye for the Plaintiff.
Nidhi Bangera, Suresh Poojary i/b Legal House for the Defendant.

Coram : Sharmila U. Deshmukh, J.
Date : July 23, 2025.

P. C. :

1. Application has been preferred seeking interim relief in respect of the infringement and passing off. By order of even date, the Petition seeking leave under Clause XIV of the Letters Patent (Bombay) came to be allowed.

2. There is no reply filed by the Defendant to the Interim Application as the submission is that the Defendant is willing to amicably settle the matter, however, without cost

3. As there is no reply filed, Mr. Mohan learned counsel for the applicant prays for interim relief.

4. Plaintiff is the registered proprietor of the trademark **ISUVAZ**, which is a medicinal and pharmaceutical preparation used in the

treatment of fungus. The Defendant's mark is **OSUVAZ**. The plaint pleads that the claim of Defendant is that Defendant's medical preparation is for the treatment of cholesterol.

5. Mr. Mohan submits that the Defendant's mark is phonetically, structurally and visually identical with the Plaintiff's mark and has in fact subsumed the whole of Plaintiff's mark by only replacing the vowel "I" with the vowel "O". He would submit that considering that products are medicinal and pharmaceutical products, the aspect of public interest assumes significance. He would further point out the sales figures and promotional expenses to demonstrate the reputation and goodwill obtained by the Plaintiff. He submits that the Plaintiff applied for the registration of mark in the year 2021 in Class-5 and points out to the registration certificate. He would submit that to the opposition petition which was filed by the Plaintiff against the Defendant mark, a counter statement has been filed in which it is claimed that Defendant's mark is distinct and therefore it is not even Defendant's case that the name has been derived from the generic drug.

6. The Plaintiff's registration of the mark "**ISUVAZ"** is evidenced from the registration certificate placed on record. The Defendant's mark "**OSUVAZ"** which is also a word mark is *prima facie* phonetically and visually identical to the Plaintiff's Mark "**ISUVAZ".** The Defendant

had subsumed the whole of Plaintiff's mark and has merely replaced the vowel "I" with the vowel "O" and therefore *prima facie* deceptive similarity is established.

7. Mr. Mohan is right in relying upon the counter statement filed by the Defendant to the opposition Application in which it is claimed that the mark is distinctive and is not claimed on the basis of having been appropriated from the generic drug. There cannot be any defence by the Defendant for adopting the same word mark, which has already been registered. There is no material placed on record which would demonstrate that the Defendant had taken any search in the registry before adopting the mark "**OSUVAZ"**. The products are used for treatment of different ailments and it is well settled that stricter approach is required to be adopted in case of medicinal preparations.

8. In order to demonstrate goodwill and reputation, sales figure has been placed on record and also the advertisement expenses which has been duly certified by the chartered accountant.

9. A strong *prima facie* case is made out for grant of interim relief. Interim Application is allowed in terms of prayer clauses (a) and (b), which reads as under:

> "(a) that pending the hearing and final disposal of Suit, the Defendant by itself, its Directors, employees, servants, dealers, franchisees, distributors, stockist, licensees, agents, sister concerns, wholesalers, retailers, representatives, affiliates, associates and/or assigns and

all persons acting for and on its behalf be restrained by a temporary order and injunction of this Hon'ble Court from in any manner manufacturing, selling, offering for sale, stocking, soliciting, exporting, displaying, advertising, marketing, promoting and/or in any manner whatsoever using directly or indirectly in relation to any pharmaceutical and/or medicinal preparation and/or such allied and cognate goods the trade mark ‘OSUVAZ’ and/or using any other mark or word being identical with and/or deceptively similar to the Applicant's registered trade mark 'ISUVAZ' and/or using any other trade mark so as to infringe the Applicant's registered trademark 'ISUVAZ' bearing No. 5082122 in any other manner whatsoever;

(b) that pending the hearing and final disposal of Suit, the Defendant by itself, its Directors, employees, servants, dealers, franchisees, distributors, stockist, licensees, agents, sister concerns, wholesalers, retailers, representatives, affiliates, associates and/or assigns and all persons acting for and on its behalf be restrained by a temporary order and injunction of this Hon'ble Court from in any manner manufacturing, selling, offering for sale, stocking, soliciting, exporting, displaying, advertising, marketing, promoting and/or in any manner whatsoever using directly or indirectly in relation to any pharmaceutical and/or medicinal preparation and/or such allied and cognate goods the trade mark 'OSUVAZ' and/or using any other mark or word being identical with and/or deceptively similar to the Applicant's registered trade mark 'ISUVAZ' and/or using any other trade mark so as to pass off the Defendant's goods / products as those of the Applicant's and/or to indicate any connection with the Applicant”.

[Sharmila U. Deshmukh, J.]

Signed by: Sachin R. Patil
Designation: PS To Honourable Judge
Date: 25/07/2025 11:50:19