



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 04.06.2025

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

A.No.2153 of 2025
in C.S.No.282 of 2018

Venkata Narayana Active Ingredients Private Limited,
(Formerly Nutra Specialties Pvt. Ltd.)
Venkata Narayana Towers, III Floor,
New No. 60, Old No.35, Venkata Narayana Road,
T. Nagar, Chennai-600 017. ... Applicant / Defendant

-VS-

1. Novartis AG,
Lichtstrasse 35, 4056 Basel, Switzerland
Rep. by its Power of Attorney Holder Mr.Atul Bade.

2. Novartis Healthcare Pvt. Ltd.,
Inspire BKC, G Block, 7th floor,
Bandra Kurla complex main road, Bandra (East),
Mumbai-400 051, Represented by its POA Mr.Atul Bade.
.. Respondents / Plaintiffs

Prayer: Application is filed under Order XIV Rule 8 of OS Rules Read With Order 11 Rule 1(10) and (12) of CPC as amended by the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, to allow this application and permit the applicant/defendant to file the following additional documents pertain to the



respondents/plaintiffs' patent:

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- (i) US Patent Application No.09/209, 068 dated 10.12.1998 (photo copy)
- (ii) US Patent Application No.08/746, 295 dated 07/11/1996 (photo copy)

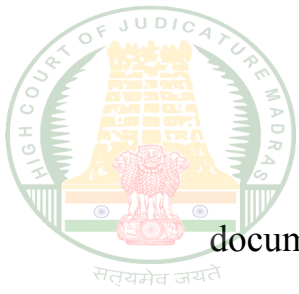
For Applicant : Mr.T.K.Ramkumar
for M/s.Ram and Rajan Associates

For Respondents : Mr.Hemant Singh
for Mr.Arun C.Mohan

ORDER

By this application, the defendant seeks leave to file the additional documents described in the affidavit and Judge's summons.

2. Learned counsel for the applicant/defendant submits that these documents were required to be filed by the patentee along with the patent application, but the patentee failed to do so. In support of this contention, learned counsel refers to the communications from the Patent Office. The second submission is the applicant was unable to obtain access to these documents from the US Patent Office. Therefore, these documents could not be filed until the applicant obtained copies thereof from the European Patent Office. The third submission is that P.W.1 was confronted with these



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documents, but failed to acknowledge the documents on specious technical grounds. Therefore, learned counsel submits that reasonable cause has been shown for filing these documents at this juncture.

3. These contentions are refuted by learned counsel for the plaintiffs. Learned counsel for the plaintiffs refers to documents filed earlier by the defendant in relation to PCT applications of the plaintiffs. He points out that the documents now proposed to be filed by the applicant are referred to therein. Since these documents form part of earlier PCT filings, learned counsel submits that the applicant could have obtained and filed these documents earlier. The next submission of learned counsel is that these documents were referred to in the additional written statement of the defendant, thereby indicating that these documents were available with the defendant earlier. The last contention of learned counsel is that a party cannot be permitted to endeavour to exhibit documents in course of cross-examination and, thereafter, file an application for leave to file such documents because the witness did not acknowledge the documents when confronted. According to learned counsel, the said reason does not constitute

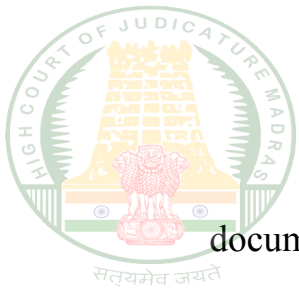


reasonable cause.

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4. The agreed position is that the two documents in respect of which leave is requested are patent applications filed by the patentee/plaintiff. The documents on record indicate that these documents were not filed along with the patent application lodged before the Indian Patent Office. While the defendant asserts that these documents could not be obtained from the US Patent Office and therefore could not be filed earlier, this contention is denied by the plaintiffs on the ground that these documents were available as part of the PCT filings. In any event, after obtaining copies of these documents, the defendant endeavoured to exhibit the same by confronting the plaintiffs' witness. Given the fact that the documents and applications filed by the plaintiffs, this course of action cannot be considered unreasonable.

5. When the above facts and circumstances are considered holistically, notwithstanding the fact that the suit is at the trial stage, in my view, the applicant/defendant has established reasonable cause to file these



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documents. This will, however, be without prejudice to the right of the plaintiffs to raise objections, *inter alia*, on grounds of admissibility, relevance and proof in course of trial.

6. The application is allowed on the above terms without any order as to costs.

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SENTHILKUMAR RAMAMOORTHY,J.

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