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OA No. 856 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 10-09-2025**

CORAM

**THE HONOURABLE MR JUSTICE N. ANAND VENKATESH**

**OA No. 856 of 2025**

Fortune Biotech Ltd  
(CIN: U24230TG1993PLC016149)  
rep.by its Managing Director,  
Mr.Vikhyat Annam  
Having its Office at  
6-6-125, Annam Gardens, Kavadiguda,  
Secunderabad 500 380

Also having its Registered Office at  
B-6, Phase-I, Cooperative Industrial  
Estate, CIE Balangar, Hyderabad  
Tirumalagiri, Telangana, India, 500 037

Applicant

Vs

Madras Fertilizers Limited  
(CIN: L32201TN1966GOI005469)  
Rep.by its Chairman and Managing  
Director Having its Registered Office at  
No.2, Manali, Chennai 600 068

Respondent

**PRAYER**

To grant an interim injunction restraining the Respondent, its employees, officers, agents, servants or anybody claiming through or under them from proceeding in any manner with the e-tender bearing No.ESER/M&D/IP/NEEM



PESTICIDE/120925/011 dated 14 August 2025 issued by the Respondent, which is in breach of the Agreement for Formulation and Supply of Neem Products dated 30.04.1997 between the Applicant and the Respondent, including but not limited to the conduct of the said Tender, opening of bids, evaluation of bids, or awarding of any contract to any third party for the supply of neem pesticide products, pending the commencement and conclusion of arbitral proceedings between the parties.

For Applicant(s): Mr.R.Venkatavardan for  
M/s.Sriram Venkatavardan

For Respondent(s): Mr.Jayesh B.Dolia  
Senior Counsel for  
Ms.N.Varsha for M/s Aiyar and  
Dolia

### **ORDER**

This original application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (for brevity, hereinafter referred to as “the Act”) for an interim injunction restraining the respondent from in any manner proceeding further with the e-tender dated 14.08.2025, since it is in breach of the agreement dated 30.04.1997 between the applicant and the respondent.

2. The case of the applicant is that the applicant and the respondent share a long standing commercial relationship for nearly 28 years. On 30.04.1997, the parties entered into an agreement for formulation and supply of neem products. As per the agreement, the applicant would manufacture and supply certain proprietary neem-based pesticide products exclusively to the respondent, who in



turn would market and distribute the same under its own brand names in designated territories.

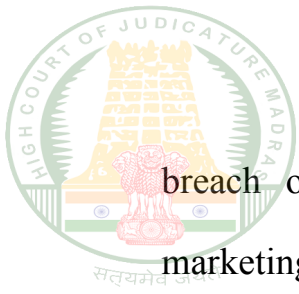
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3. Apart from the above agreement dated 30.04.1997, the applicant and the respondent have also entered into a marketing agreement dated 01.01.2021, whereby the period of agreement was fixed from 01.01.2021 to 31.12.2025.

4. The understanding between both the parties was going on in a smooth manner till March 2025. The applicant received a communication dated 25.04.2025, wherein the applicant was informed that the current pricing arrangement was to expire by 15.05.2025 and a request was made to reduce the existing supply/purchase price to the extent of 12-15% for 2025-26 to perform the targeted volume of business. Pursuant to the said letter, the parties exchanged various e-mails.

5. The applicant was aggrieved by the email dated 13.05.2025, wherein the applicant was informed by the respondent that the applicant should not honour any pending indents/purchase orders from 16.05.2025 until further advise received from the respondent.

6. Apart from the above, the e-tender dated 14.08.2025 came to be issued by the respondent and thereby, an attempt was made to get the supply of neem pesticide products elsewhere and which, according to the applicant, was in



breach of the agreement between the parties and more particularly, the marketing agreement dated 01.01.2021, which period expires only on 31.12.2025.

7. It is under these circumstances, the present original application came to be filed to restrain the respondent from proceeding further with the e-tender.

8. The respondent has filed a detailed counter affidavit. It is not necessary to extract the entire contents of the counter affidavit and it will suffice to extract paragraphs 10 & 35 in the said counter hereunder:-

“10. It is submitted that similarly, the right to float a tender is not curtailed under the 1997 agreement. Assuming without admitting, the Petitioner can at the most make a claim, it can at the most be 12% of the production of the year which is supplied to the Respondent. The Respondent is willing to accept 12% of the production on the strength of the previous years sales and therefore, there cannot be any prejudice to the Petitioner if tender is floated. In fact, to have such an agreement for about 30 years for a government company without there being any competition is not a good sign of business ethics. The floating of the tender will give room for effective competition and will enable the Respondent to have a price check and will also prevent the Petitioner from having monopoly under the agreement. Therefore, it is just and necessary for the tender to be floated to invite more competitive offers and better business for the Respondent.



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35. It is submitted that the April 1997 agreement is a general agreement whereas what is in force is the marketing agreement dated 01.01.2021 which expires on 31.12.2025. This Respondent is agreeable to keep the marketing agreement dated 01.01.2025 in force till 31.12.2025 and thus the Petitioner will not be prejudiced in any manner.”

9. This Court carefully considered the submissions made by the learned counsel on either side and the materials available on record. The agreement dated 30.04.1997 enabled the applicant to supply the products to the respondent till a stage is reached wherein the applicant is not able to meet the requirement of the respondent. Clause 7 of the agreement also provided that the applicant will have the right to enter into marketing agreement with one or more agencies in MFL territory in the event of MFL not meeting their obligation as provided under clause 3.11.

10. It is also relevant to take note of clause 4 of the agreement, which provided for transfer pricing under clause 4.10.

11. Clause 3.11 also makes it clear that for each year commencing from April 01, the applicant and the respondent would finalise in advance on the annual plan indicating the product-wise quantities of neem product to be supplied by the applicant and to be purchased by the respondent during the year and such annual plan shall not be less than 12% of the production for the year. Clause 3.14 also provides that the aggregate of the firm orders in a year shall



not be less than 75% of the annual plan. All these clauses will have a bearing while dealing with the actual grievance that has been expressed by the learned counsel for the applicant. It is also relevant to take note of the marketing agreement dated 01.01.2021, which is effective from 01.01.2021 upto 31.12.2025 and this marketing agreement is an integral part of the original agreement executed on 30.04.1997 and all the terms and conditions specified in the original agreement will be applicable in this agreement also and it is the extension part of the original agreement.

12. When this Court posed a question to the learned counsel for applicant as to whether the applicant can perpetually expect the respondent to make their orders and purchase products only from the applicant, the learned counsel fairly submitted that the applicant cannot have any such expectation and the terms of the agreement dated 30.04.1997 must be honoured at least upto 31.12.2025 as per the marketing agreement dated 01.01.2021. The learned counsel submitted that the respondent will have the right to enter into manufacture and supply agreement with other formulators for the neem product only if the applicant is not able to meet the requirement of the respondent. However, the correspondence between the parties shows that the actual dispute pertains to the transfer pricing and which cannot be a ground to completely negate the applicant and proceed further to procure the product from others, which will run contrary to clause 7.10 of the original agreement.



13. Per contra, the learned Senior Counsel appearing on behalf of the respondent submitted that the respondent is not attempting to go against the terms and conditions of the agreement dated 30.04.1997 or the marketing agreement dated 01.01.2021. Even in the counter affidavit filed by the respondent, it has been made clear that the respondent is willing to accept 12% of the production on the strength of the previous years sales from the applicant and that this will be continued till 31.12.2025 when the period ends, as per the marketing agreement dated 01.01.2021. The learned Senior Counsel submitted that if 12% of the production of the applicant is assured, the applicant cannot stop the respondent from proceeding further to issue the e-tender for procurement of the product elsewhere.

14. The counter filed by the respondent and the submissions made by the learned Senior Counsel appearing on behalf of the respondent sufficiently answers the grievance expressed by the applicant.

15. As per clause 3.11 of the original agreement dated 30.04.1997, the annual plan shall not be less than 12% of the production for the year of the applicant. The respondent is willing to abide by this clause and is willing to accept 12% of the production on the strength of the previous years sales. Apart from that, the respondent is also willing to proceed further with this arrangement till 31.12.2025, thereby the period fixed in the marketing agreement dated 01.01.2021 will also be complied with. If the above is



ensured, the applicant cannot have any grievance in the respondent proceeding further with the e-tender. Hence, the respondent can proceed further with the tender process and the procurement can take place after 31.12.2025.

16. In the result, this original application is disposed of in the above terms.

**10-09-2025**

SS

To

The Chairman and Managing Director  
Madras Fertilizers Limited  
Having its Registered Office at  
No.2, Manali, Chennai 600 068



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**N.ANAND  
VENKATESH J.**

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