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

+ **CS(COMM) 342/2020**

PHARMACYCLICS LLC & ANR.

.....Plaintiffs

Through: Mr. Pravin Anand, Mr. Dhruv Anand, Ms. Udit Patro, Ms. Nimrat Singh and Mr. Dhananjay Khanna, Advs. for Plaintiffs.

versus

BDR PHARMACEUTICALS INTERNATIONAL PVT LTD & ORS.

.....Defendants

Through: Mr. Rahul Bhujbal and Mr. Yash Raj, Advs. for D-3.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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13.05.2025

I.A.12100/25-(Under Order XXIII Rule 3 read with Section 151 of the CPC)

1. This is a joint application under *Order XXIII Rule 3* of the Code of the Civil Procedure, 1908 (**CPC**) filed on behalf of the plaintiffs and the defendant no.3 seeking a consent decree based on the terms of settlement as mentioned in *para 2* of the present application, which is reproduced as under:-

“i. Emcure undertakes not to manufacture, purchase, sell, supply or in any manner commercially deal in or assist others in commercializing any product containing Ibrutinib, which is the subject matter of protection in the Suit Patent IN262968, under any brand name including TYBRIVA, as also Ibrutinib API, until expiration of the said Suit Patent.

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ii. Emcure further undertakes not to purchase and/or sell any stock of Ibrutinib products, including any finished formulation under the brand name TYBRIVA or any other, as well as Ibrutinib API, that it currently has in its inventory.

iii. Emcure acknowledges the validity of Suit Patent IN262968 and undertakes not to challenge the validity of the Suit Patent during the subsistence of the term of the said patent.

iv. Emcure undertakes to provide the Plaintiffs with information pertaining to the following:

a. The entity from whom Emcure purchased its Ibrutinib product (finished formulation and/or Ibrutinib API);

b. The quantities of the infringing product 'TYBRIVA' or any other Ibrutinib finished formulation / Ibrutinib API purchased by Emcure, and the prices paid for the product;

and

c. The quantities of the infringing 'TYBRIVA' product and/or

any other Ibrutinib product, including Ibrutinib API, sold by

Emcure, and the price of such sale;

Emcure further undertakes to provide the said information, and supporting documentation, to Plaintiffs on its letter head, duly certified by an auditor under sealed covers within ten (10) days of date of execution of this Settlement Agreement.

v. Emcure undertakes that it has no objection to Plaintiffs using and/or relying upon any information provided by Emcure relating to the amount of Ibrutinib product sourced

by Emcure, during the proceedings in other lawsuits instituted by Plaintiffs, whether those presently pending or those which the Plaintiffs institute in the future, for the purpose seeking damages and/or other relief, against any entity that provided Emcure with the infringing Ibrutinib product(s).

vi. Emcure undertakes to inform the Plaintiffs of any infringing activity that it comes across in the future (within the bounds of reasonable efforts), including information pertaining to any entity offering the infringing products to Emcure.

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vii. *In consideration of the abovementioned undertakings and acknowledgements given by Emcure, Plaintiffs forego their claim for delivery up, rendition of accounts, damages and costs under paragraph 58 (b)-(f) of the Plaint. Additionally, conditional on Emcure complying with its undertakings provided in clauses (i) to (vi) above, in letter and in spirit, Plaintiffs undertake to waive their claim to damages and costs against Emcure and to take any further action against Emcure in respect of the products in suit. The Parties agree that the present suit may be disposed off by way of a decree of permanent injunction [in line with the reliefs sought by Plaintiffs in paragraph 58 (a) of the Plaint] in favour of Plaintiffs.*

viii. *The undertakings given herein shall also be binding on all the legal heirs, representatives and assigns-in-business of Emcure. A breach of these undertakings shall automatically entitle the Plaintiffs to claim for the damages prayed for in the suit."*

2. During the course of proceedings, learned counsel for the defendant no.3 has handed over the information and supporting documents to the learned counsel for the plaintiffs on its letterhead which is duly certified by its auditor in terms of paragraph 2(iv)(c) of the present application.

3. The present application is duly supported by affidavits of the authorized representatives of the plaintiffs and the defendant no.3.

4. Learned counsels of the parties confirm the terms of the settlement and identify the signatures of their respective clients and pray that the suit be decreed in the aforesaid terms as mentioned in *para 2* of the present application.

5. This Court has perused the terms of settlement as recorded *inter-se* the plaintiffs and the defendant no.3 and finds them to be lawful.

6. In view thereof, the present application is allowed and disposed of.

CS(COMM) 342/2020, I.A. 7333/2020, I.A. 8761/2021, I.A. 13390/2021, I.A. 15713/2021, I.A. 16039/2021, I.A. 16040/2021, I.A. 33552/2024

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7. Learned counsel for the plaintiffs, in view of the settlement entered *inter-se* the plaintiffs and the defendant no.3, prays that since the dispute *inter se* them have been settled, the present suit be decreed in the terms of the aforesaid settlement as mentioned in *para 2* of the application bearing no. I.A.12100/25.

8. Accordingly, the present suit is decreed in terms of the settlement as recorded hereinabove in *para 2* of the application bearing no. I.A.12100/25, which are reproduced hereinabove.

9. Needless to mention that the plaintiffs and the defendant no.3 shall remain bound by the terms of settlement as recorded in *para 2* of the application bearing no. I.A.12100/25.

10. Registry is directed to draw up a Decree Sheet accordingly.

11. Needless to mention, the aforesaid terms of settlement as mentioned in *para 2* of the application bearing no. I.A.12100/25, shall form a part of the Decree Sheet.

12. Accordingly, in view of the above, the present suit, stands disposed of.

SAURABH BANERJEE, J

MAY 13, 2025/bh