

**IN THE HIGH COURT AT CALCUTTA
COMERCIAL DIVISION
ORIGINAL SIDE**

AO-COM/28/2024

**WEST BENGAL CHEMICAL INDUSTRIES LIMITED
VS
M/S GTZ INDIA PVT LTD AND ORS.**

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK
AND

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

Date : April 10, 2026.

Appearance:

*Mr. Saunak Sarbajna, Adv.
...for the appellant.*

*Mr. Sayan Roy Chowdhury, Adv.
Mr. Soumen Mukherjee, Adv.
Mr. Tanmoy Roy, Adv.
...for the respondents.*

The Court: Paper book filed in Court today be taken on record.

Appeal is directed against a judgment and order dated June 25, 2024 passed in GA/1/2023 in CS-COM/513/2024 (Old No. CS/116/2023).

By the impugned judgment and order, learned Single Judge refused to grant injunction as prayed for by the appellant.

Appellant as the plaintiff claims that, the defendants infringed a registered patent over a particular product.

Product concerned, is a medicine. It is used for the treatment of patients suffering from anaemia.

Contention of the defendants is that, the defendants did not act in breach of the patent and that, the appellant cannot claim patent over the subject product.

Although, in our view, the plaintiff makes out a prima facie case, the other two grounds on which, an order of injunction is founded upon does not exist in favour of the appellant. Since, a medicine is involved which is used by the members of the public, it would not be appropriate on the scale of balance of convenience and inconvenience at an interim stage to injunct the defendants from producing such product. However, to balance the equities between the parties, it would be appropriate that, the defendants furnish periodic statement of accounts to the Registrar, Original Side of the sale of the products of the defendants which, the plaintiff claim are in breach of the patent. Such accounts will commence from the date of filing of the suit. Accounts will be for a period of a quarter. Accounts for the period since the filing of the suit till the date of this order will be furnished by the defendants to the Registrar, Original Side within a period of four weeks from date. Quarterly accounts will be furnished within 15 days of the end of each quarter subsequently. Such accounts be kept in sealed covers.

The ground of irreparable injury for the plaintiff, if the injunction is not granted, is not available to the plaintiff at this stage. Plaintiff can be compensated by money in the event, the plaintiff succeeds in the suit.

Contentions of the defendants are that, the subsisting patent in favour of the plaintiff, is revocable. Defendants applied for revocation. Revocation application is pending. This interim arrangement is passed without prejudice to the rights and contentions of the rival parties with regard to the subsisting patent. The appropriate authority before which, revocation application is pending will not be influenced by any of the observations made by us and will proceed and decide such revocation application, in accordance with law.

The observations made by us herein are purely prima facie in nature. The same will not effect any right, title and interest of any of the parties in any proceeding whatsoever. The accounts so furnished will abide by the result of the suit.

AO-COM/28/2024 along with connected application are disposed of, without any order as to costs.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)

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AR (CR)