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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 338/2019, IA No.8783/2019 (u/O XXXIX R-1&2 CPC)
& IA No.8784/2019 (u/O XXVI R-9 CPC)
SUN PHARMA LABORATORIES LTD. Plaintiff

Through: Mr. Sachin Gupta, Ms. Rajnandini
Mahajan, Ms. Jasleen Kaur & Mr.
Pratush Rao, Advs.

Versus

ADWIN PHARMA & ORS. Defendants

Through: Mr. Gopesh Tripathi & Mr. Alok
Singh, Advs. for D-1.
Mr. Manoj Arora & Ms. Shipra
Sharma, Advs. for D-2&3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **09.07.2019**

1. This order is in continuation of the earlier order dated 4th July, 2019.
2. The counsel for the defendant no.1 Adwin Pharma as well as the counsel for defendants no.2 and 3 viz. Genford Healthcare P. Ltd. and Genford Drugs P. Ltd. appear.
3. The counsel for defendants no.2 and 3 states that Mr. Kishore Joshi, Director of both the defendants no.2 and 3 is also present in Court.
4. The counsel for the defendants no.2 and 3 states that the defendant no.2 Genford Healthcare P. Ltd., in May, 2018, got manufactured from the defendant no.1, 100 boxes, with each box having 1000 tablets, of the medicine in the name of 'RIFAGET-400' and marketed the same; however thereafter the defendants no.2 and 3 have not manufactured/got marketed any medicine under the 'RIFAGET' or 'RIFAGET-400' mark/brand and not marketed the same and the defendants no.2 and 3 in or about November-December,

2018 started selling the same medicine under the mark 'RIFAMIDE-400'.

5. The counsel for the defendants no.2 and 3, under instructions from Mr. Kishore Joshi, present in Court, states that the defendants no.2 and 3 have no objection to a decree for permanent injunction as sought by the plaintiff being passed, and that the defendants no.2 and 3 as of today are not in possession of any stocks of the medicine under the name 'RIFAGET-400'.

6. The counsel for the plaintiff has shown in the Court a cash memo dated 19th June, 2019 of a chemist in Fatehpur, of purchase of 'RIFAGET-400', and states that the medicine under the said mark was available at least till 19th June, 2019.

7. The counsel for the defendant no.1 though confirms that the defendant no.1 had manufactured the drug on instructions but states that the said order was placed by M/s Kishona Pharmaceuticals, a sister concern of the defendants no.2 and 3.

8. The counsel for the defendants no.2 and 3 states that M/s Kishona Pharmaceuticals is the proprietorship of Mr. Kishore Joshi present in the Court.

9. The counsel for the defendant no.1 Adwin Pharma states that the defendant no.1 is also not manufacturing any medicine under the name of 'RIFAGET-400', itself or for any other person, and is not in possession of any stocks thereof and has no objection to a decree for permanent injunction being passed. On enquiry it is stated that defendant no.1 is a partnership and Mr. Ashish Dhamija is one of the managing partners; the name of the other partner is not known.

10. In the circumstances, a decree is passed, in favour of the plaintiff, and jointly and severally against the defendants no.1 to 3 as also against Mr. Kishore Joshi, Mr. Ashish Dhamija and other directors/partners of the defendants, of permanent injunction in terms of prayer paragraphs 33(a), (b) and (c) of plaint dated 1st July, 2019.

11. A decree is also passed, in favour of plaintiff, of recovery of costs, from the defendants no.2 and 3 as well as Mr. Kishore Joshi of Rs.50,000/- payable on or before 19th July, 2019 and if the costs are not so paid, the costs shall stand enhanced to Rs.1,00,000/- and shall be recoverable by the plaintiff coercively from defendants no.2 and 3, and their directors and Mr. Kishore Joshi.

12. Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

JULY 09, 2019

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