



\$~8 & 23

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

+ **CS(COMM) 460/2023, I.As. 12431/2023 & 12432/2023**

SUN PHARMA LABORATORIES LTD. .... Plaintiff

Through: Mr. Sachin Gupta Mr. Ajay Kumar,  
Mr. Manan Mondal, Ms. Gaurangi  
Sharma & Mr. Rohit Pradhan,  
Advocates

versus

PERILLA LIFE SCIENCE P. LTD. & ANR. .... Defendants

Through: Mr. Junaid Alam and Ms. Twinkle  
Rai, Advs. for D-1 (M. 8860888011)

23

AND

+ **C.O. (COMM.IPD-TM) 185/2023 & I.A. 12836/2023**

SUN PHARMA LABORATORIES LTD. .... Petitioner

Through: Mr. Sachin Gupta Mr. Ajay Kumar,  
Mr. Manan Mondal, Ms. Gaurangi  
Sharma & Mr. Rohit Pradhan,  
Advocates

versus

PERILLA LIFE SCIENCE P. LTD & ANR. .... Respondents

Through: Mr. Junaid Alam and Ms. Twinkle  
Rai, Advs. for D-1 (M. 8860888011)

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

% **15.12.2023**

1. This hearing has been done through hybrid mode.
2. In the present suit, the Plaintiff/ Petitioner is the registered proprietor/owner of the mark 'GEMER', which is used as an anti-diabetic drug since 2002. It has considerable sales and expenses. The said mark is



used for a combination drug of Glimepiride, Metformin & Voglibose tablets. The Plaintiff also claims that trade mark 'GEMER' being a coined mark enjoys inherent distinctiveness indicating trade origin and source of the goods bearing the said trade mark.

3. The case of the Plaintiff is that the Defendants/ Respondents have adopted the mark 'G-VER' for an identical combination of drug. Defendant No.1 was incorporated in 2021, and specializes in the marketing of medicine under the impugned mark 'G-VER' and the Defendant No.2 manufactures the medicines under the impugned mark 'G-VER'.

4. According to the Plaintiff, in the third week of June 2023, the Plaintiff discovered that the product was sold under the impugned mark 'G-VER' being sold on online platform PharmEasy.

5. According to the Plaintiff the Defendants' product sold under CS(COMM) 460/2023 Page 4 of 7 the mark 'G-VER' is phonetically and deceptively similar to the Plaintiff's mark 'GEMER'. Further, the Defendants have registered the impugned mark 'G-VER' vide application no. 5040466 applied on 12th July, 2021, on a 'proposed to be used' basis.

6. Vide order dated 13th July, 2023, a Local Commissioner was appointed to visit the Defendants' premises, so as to verify, confirm and ascertain the extent of the Defendants' products manufactured, and supplied under the mark 'GVER'.

7. The Local Commission was executed in this matter on 19<sup>th</sup> July, 2023. The Defendants have not filed written statement till date. According to the Id. Counsel for the Plaintiff the time to file a written statement has also expired. The Court has considered the matter and finds that these are



pharmaceutical preparations. The competing marks are G-VER and 'GEMER' which are phonetically and ocularly similar.

8. Accordingly, in view of the fact that no defence has been raised and the Court is convinced of the deceptive similarity of the two marks, the Defendants shall stand restrained from using the mark 'G-VER' in respect of pharmaceutical preparations. The Defendants are, however, free to use any other non-deceptively similar mark such as 'VER-G' or any other mark so as to ensure that any confusion is completely avoided. The Defendants shall exhaust all the existing stocks by 31<sup>st</sup> January, 2024.

9. The Defendants shall file an affidavit revealing the stocks of 'G-VER' products as on date, along with batch number, quantum and the monetary value.

10. List before the Joint Registrar on 13<sup>th</sup> February, 2024.

11. List before the Court on 14<sup>th</sup> May, 2024.

**PRATHIBA M. SINGH, J.**

**DECEMBER 15, 2023**

*mr/bh*