

IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 1236/2013

MERCK SHARP AND DOHME CORPORATION and ANR

..... Plaintiffs

**Through: Mr.Sudhir Chandra Agarwal, Sr.Advocate with Mr.Pravin Anand,
Mr.Dhruv Anand, Mr.Ashutosh Sreekumar and Ms.Udita, Advocates**

versus

APRICA PHARMACEUTICALS PRIVATE LIMITED

..... Defendant

Through:

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

O R D E R

17.06.2013

I.A. No.9969/2013 (for exemption)

Exemption allowed, subject to all just exceptions.

I.A. 9970/2013 (under Section 149 CPC)

**This is an application under Section 149 CPC seeking extension of
time for deposit of the Court Fee of Rs.71000/-.**

The Court Fee of Rs.71000/- be deposited within a week.

The application stands disposed of.

I.A. No.9968/2013 (under Order 39 Rule 1 and 2 CPC)

Plaintiff has filed the present suit for permanent injunction for

restraining the defendants from infringing the registered patent of the plaintiff in respect of Sitagliptin and its derivatives salt.

The case of the plaintiffs is that the plaintiffs are the registered patent holder in India for the said molecule and its derivative salts. The learned senior counsel for the plaintiffs submits that the defendant is seeking to launch medicine with the identical salt which would be an infringement of the patent of the plaintiff. The case of the plaintiffs is that the said molecule has been invented by plaintiff No.1 who hold patent in over 102 countries for the said drug. Huge investment has been made in the invention of the said molecule and the sales in India alone and are in crores and in case the defendants are able to launch their product infringing the patent of the plaintiff irreparable loss and injury would be caused to the plaintiff.

The plaintiff has established a prima facie case on merits and I am of the view that in case ex parte injunction is not granted to the plaintiff and defendant is able to launch the product, irreparable loss and injury would be caused to the plaintiff which cannot be compensated in terms of money. Balance of convenience is in favour of the plaintiff

Issue notice to the defendants, returnable on 13th August, 2013.

Till the next date of hearing, defendant, its directors, employees, officers, servants, agents are restrained from selling, distributing, advertising, exporting, offering for sale and in any other manner, directly or indirectly, dealing in any product that infringes the subject matter of the plaintiffs? Indian Patent No.209816. Provisions of Order 39 Rule 3 be complied with within three days.

Order dasti.

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Plaint be registered. Issue summons, returnable on 13th August, 2013 on PF and RC within a week.

SANJEEV SACHDEVA, J

(VACATION JUDGE)

JUNE 17, 2013/SV