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

+ CS(COMM) 78/2017 & IAs No.1225/2017 (u/O XXXIX R-1&2 CPC), 4746/2017 (u/O VIII R-1 r/w O-VIII R-10 & S-151 CPC), 5385/2017 (u/O VIII R-1 r/w O-VIII R-10 and S-151 CPC) & 5976/2017 (for early hearing of IAs No.1225/2017 & 5385/2017)

DSM SINOCHEM PHARMACEUTICALS

NETHERLANDS B.V & ANR

..... Plaintiffs

Through: Mr. Chander M. Lall, Sr. Adv. with
Ms. Nancy Roy, Ms. Manika Arora,
Mr. Rupin Bahl and Ms. Neha
Khanduri, Advs.

Versus

SINOPHARM WEIQIDA PHARMACEUTICAL

CO (WQD) & ANR

..... Defendants

Through: Mr. C. Mukund, Ms. Swati Guha
Mazumdar and Mohd. Faris, Advs.
for D-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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17.05.2017

1. This order is in continuation of yesterday's order.
2. No written statement has been filed till date.
3. The costs of Rs.50,000/- imposed on 2nd May, 2017 or the costs of another Rs.50,000/- imposed yesterday have also not been paid.
4. The counsel for the defendant No.1 states that though he had instructed the defendant No.1 but the defendant No.1 has not remitted the costs yesterday, as was expected, though it is stated that the original written statement is informed to have been couriered.

5. The defendant No.1 cannot be permitted to proceed with the suit at its own pace. Sufficient indulgence has already been shown to the defendant No.1.
6. Accordingly, the right of the defendant No.1 to file written statement is closed.
7. The plaintiff has sued for permanent injunction to restrain the two defendants from using, manufacturing, distributing, selling, offering for sale or dealing directly or indirectly in Active Pharmaceutical Ingredient (API), pharmaceutical products, compound or formulation thereof containing Amoxicillin Trihydrate produced by a process that may amount to infringement of Patent No.247301 of the plaintiff No.1.
8. The counsel for the plaintiffs in the absence of any challenge to its patent has become entitled to the said decree.
9. The senior counsel for the plaintiffs under instructions does not press for other reliefs.
10. The need to relegate the plaintiffs to evidence for the purposes of relief of permanent injunction is not felt.
11. Accordingly, a decree is passed in favour of the plaintiffs and against the defendant No.1, of permanent injunction in terms of prayer paragraph 44(a) of the plaint, leaving the parties to bear their own costs.
12. The counsel for the defendant No.1 states that though it is also recorded in yesterday's order that advance copy of the written statement and Counter-Claim was handed over to the counsel for the plaintiffs but it be again recorded so.

13. This order is already said to be in continuation of yesterday's order.
14. The date of 6th July, 2017 is cancelled.
15. No costs.
16. Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

MAY 17, 2017

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