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

+ **CS(COMM) 471/2024**

**SUN PHARMA LABORATORIES LTD.** ..... Plaintiff

Through: Mr. Sachin Gupta, Mr. Manan Mondal, Mr. Rohit Pradhan and Ms. Prashansa Singh, Advocates.

versus

**MICROCOSM PHARMA & ORS.** ..... Defendants

Through: Mr. Sajad Mir, Proprietor of Defendant No. 1.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

% **ORDER**  
**29.05.2024**

**I.A. 30825/2024** *(seeking exemption from filing certified clearer/ typed or translated copies of documents)*

1. Exemption is granted. Subject to all just exceptions.
2. The Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. The application is disposed of.

**I.A. 30824/2024** *(seeking exemption from instituting pre-litigating mediation)*

4. The grounds stated in the instant application for seeking exemption from pre-litigation mediation, are as follows:

“2. It is most respectfully submitted that since the Plaintiff is praying



*for an urgent interim relief qua medicinal products. Therefore, the Plaintiff maybe exempted from instituting prelitigation mediation under Section 12A of the Commercial Courts Act.”*

5. In the opinion of the Court, the afore-noted averments do not meet the threshold of exempting compliance with Section 12A of the Commercial Courts Act, 2015. The Plaintiff also did not issue any cease-and-desist to the Defendants before filing the present suit. However, considering that the subject matter of the suit pertains to medicinal products, the Court at this stage, considers it appropriate to seek a reply from the Defendants.

6. Issue notice. Mr. Sajad Ahmad Mir, proprietor of Defendant No. 1-in-person, accepts notice.

7. Issue notice to the remaining Defendants, by all permissible modes, upon filing of process fee, returnable on the next date of hearing.

8. Re-notify on 30<sup>th</sup> May, 2024.

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9. Let the plaint be registered as a suit.

10. Issue summons. Summons are accepted by Mr. Sajad Mir, proprietor of Defendant No. 1 appearing in person. He confirms the receipt of the paper-book and waives his right of formal service of summons. Written statement shall be filed by the Defendant within 30 days from today. Upon filing of process fee, issue summons to the remaining Defendants, by all permissible modes. Summons shall state that the written statement(s) shall be filed by the Defendant within 30 days from the date of receipt of summons. Along with the written statement(s), the Defendants shall also file an affidavit(s) of admission/denial of the documents of the Plaintiff, without which the written statement(s) shall not be taken on record.



11. Liberty is given to the Plaintiff to file replication(s) within 15 days of the receipt of the written statement(s). Along with the replication(s), if any, filed by the Plaintiff, affidavit(s) of admission/denial of documents of the Defendants, be filed by the Plaintiff, without which the replication(s) shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

12. List before the Joint Registrar for marking of exhibits on 30<sup>th</sup> August, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

13. List before Court for framing of issues thereafter.

**I.A. 30826/2024 (u/Order XXXIX Rules 1 & 2 r/w Section 151 of CPC, 1908)**

14. The Plaintiff, the registered proprietor of trademark “PEGMOVE,” bearing No. 2433810 dated 27<sup>th</sup> November, 2012 in class 05 for medicinal and pharmaceutical preparations, has filed the instant suit, alleging that Defendant No. 1’s mark “PEG-MU” is deceptively similar to the Plaintiff’s mark, which is likely to cause consumer confusion and therefore, amounts to infringement.

15. Issue notice. Mr. Sajad Ahmad Mir, proprietor of Defendant No. 1, appearing in-person, accepts notice. Reply be filed within a period of four weeks from today. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

16. Issue notice to the remaining Defendants, by all permissible modes, upon filing of process fee, returnable on the next date of hearing.

17. Mr. Sajad Ahmad Mir, the proprietor of Defendant No. 1 – M/s. Microcosm Phanna, states that since the Plaintiff has an objection to their



trademark “PEG-MU,” he is willing to discontinue the use of the said mark and undertakes to not adopt any mark which is deceptively similar to the Plaintiff’s mark.

18. Mr. Sachin Gupta, counsel for Plaintiff, states that in light of the above statement, the suit can be resolved, however, he requests that the Defendants must first share the details of stock of impugned products that has already been manufactured and packaged under the impugned mark. Mr. Mir states that these details shall be furnished to Mr. Gupta by today evening itself.

19. Renotify for tomorrow i.e., 30<sup>th</sup> May, 2024.

**I.A. 30827/2024 (for appointment of local commissioners)**

20. Mr. Gupta states that he does not wish to press this application.

21. Dismissed as withdrawn.

**SANJEEV NARULA, J**

**MAY 29, 2024**

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