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

+ **CS(OS) 777/2023**

ZYDUS HEALTHCARE LIMITED

..... Plaintiff

Through: Mr. Sandeep Sethi, Sr. Adv. with Ms.
Aadya Chawla, Ms. Nandini
Choudhary, Advs.

versus

AKUMS DRUGS AND PHARMACEUTICALS LIMITED

..... Defendant

Through: Mr. Avinash Kr. Sharma, Adv. (VC)

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

29.01.2024

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I.A. 2081/2024 in CS(OS) 777/2023

1. The present suit has been filed seeking following prayers;

a. Pass a decree of declaration that the Defendant's Drug has not been approved under the applicable law;

b. Pass a decree of permanent injunction restraining the Defendant, and all others acting for or/and on its behalf from launching, selling, distributing, advertising, marketing, exporting, importing or otherwise dealing with the drug 'Dydrogesterone Extended/Sustained Release Tablets 20mg/30mg';

c. An order for cost of the proceedings;

d. Any other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case may be passed.

2. Sh. Sandeep Sethi, learned senior counsel for the plaintiff submits that in the reply to the application under Order 39 Rule 1 and 2 CPC, the



defendants have specifically stated that they have not done marketing or promotion of the impugned drug. However, learned counsel submits that despite this categorical statement made in the reply, the subsidiary company of the defendant namely Akumentis Healthcare Ltd. has started selling 'Dydrogesterone Control Release 20mg Tablets' under the brand name 'My DydroOD 20 mg'. Learned counsel submits that Akumentis Healthcare Ltd. does not have any permission to do so. It has further been submitted that in order to protect the interest of the plaintiff, Akumentis Healthcare Ltd. which is a subsidiary company of the defendant may be restrained from selling or marketing the 'Dydrogesterone Control Release 20mg Tablets' under the brand name 'My DydroOD 20 mg'.

3. Issue notice.
4. Sh. Avinash Kumar Sharma, learned counsel for the defendant has accepted the notice.
5. Learned counsel for the defendant submits that as per his instructions, Akumentis Healthcare Ltd. has permission to sell and market the drug under the brand name 'My DydroOD 20 mg'. Learned counsel further submits that in any case, the present application could not have been filed with the present suit and if the plaintiff has any grievances against Akumentis Healthcare Ltd, they have to file a separate suit.
6. Learned counsel for the defendant seeks some time to file the reply.
7. Let the permission granted by the competent authority to Akumentis



Healthcare Ltd. qua selling 'Dydrogesterone Control Release 20mg Tablets' under the brand name 'My DydroOD 20 mg' be furnished.

8. Let the reply be also filed before the next date of hearing with an advance copy supplied to the opposite party.
9. List on 14.02.2024.

DINESH KUMAR SHARMA, J

JANUARY 29, 2024

Pallavi