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

+ **CS(COMM) 283/2023 & I.A. 8396/2024**

SUN PHARMA LABORATORIES LTD Plaintiff

Through: Mr. Sachin Gupta and Mr. Rohit
Pradhan, Advs.

versus

FINECURE PHARMACEUTICALS LTD & ORS. Defendants

Through: Mr. J. Sai Deepak, Adv.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **15.04.2024**

I.A. 8396/2024

1. This application has been filed by defendant Nos.1 and 3 under Section 124 of the Trade Marks Act,1999 seeking directions to frame a preliminary issue regarding the invalidity of plaintiff's registered trademark 'PANTOCID' *vide* registration No.791979 dated 19th February, 1998 in Class 5. The application is premised upon an opposition to the registration of plaintiff's mark by one Takeda GMBH, which was subsequently rejected by the Senior Examiner. On this basis, defendants claim that there is an issue of validity which needs to be examined.
2. Mr. Sachin Gupta, counsel for plaintiff, however, points out to the order of the Division Bench dated 06th December, 2023 in FAO(OS)(COMM) 200/2023 where the refusal of the Single Judge to direct an injunction in favour of plaintiff was appealed. In that, Mr. Gupta, counsel for plaintiff points out to para 4, where the Division Bench notes of the Takeda opposition



and further that Takeda had never assailed or questioned the dismissal of their opposition. On this basis, the Division Bench had stayed the refusal of injunction by the Single Judge.

3. Mr. Gupta, counsel for plaintiff, states that he does not wish to file a reply and wishes to argue on the basis of these assertions.
4. List on 12th August, 2024, the date already fixed.
5. Order be uploaded on the website of this Court.

ANISH DAYAL, J

APRIL 15, 2024/MK/na