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

+ I.A. 6729/2020 & I.A. 6730/2020 in CS(COMM) 229/2019

NOVARTIS AG & ANR. Plaintiffs

Through: Mr. Hemant Singh, Ms. Mamta
Jha, Dr. Shilpa Arora, Advs.

versus

NATCO PHARMA LIMITED Defendant

Through: Mr. Parag P. Tripathi, Sr. Adv.
with Ms. Rajeshwari H., Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

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11.08.2020

(Video-Conferencing)

I.A. 6730/2020 in CS(COMM) 229/2019

1. This is an application for exemption from filing attested affidavit in the accompanying I.A. 6729/2020.

2. Subject to the duly affirmed affidavit being filed within 72 hours of resumption of normal court work, exemption, as sought, is granted for the present.

3. The application is disposed of.

I.A. 6729/2020 CS(COMM) 229/2019



1. By order dated 2nd May, 2019, an *ad interim* injunction was granted by this Court, in favour of the plaintiff, to the extent that the defendant was restrained from fresh manufacture of the drugs which were allegedly infringing the patent of the plaintiff, though it was permitted to sell existing stocks, given the fact that the drugs were required for anti-cancer treatment.
2. IAs 6384-85/2019, preferred under Order XXXIX of the CPC, for interim relief, were directed to be listed on 11th July, 2019.
3. On 16th August, 2019, the post grant opposition, filed by the defendant, before the Deputy Controller of Patents and Designs (hereinafter referred to as the 'Controller of Patents'), seeking revocation of the patent granted to the plaintiff, was allowed and the suit patent was revoked by the Controller of Patents.
4. In view thereof, this Court, *vide* order dated 20th August, 2019, suspended the operation of the order, dated 2nd May, 2019 *supra*, with liberty to the plaintiff to approach this Court for appropriate orders, should any orders, in favour of the plaintiff, be passed by the Intellectual Property Appellate Board (IPAB), to whom the plaintiff had appealed against the decision of the Controller of Patents, revoking the suit patent.
5. *Vide* order dated 20th July, 2020, the learned IPAB has stayed the operation of the order, dated 16th August, 2019, of the Controller of Patents.



6. This application has been preferred in these circumstances, seeking revival of the *ad interim* order granted by this Court in this matter on 2nd May, 2019.

7. *Prima facie*, the prayer would be required to be allowed.

8. However, Mr. Tripathi, learned Senior Counsel, while opposing the application, also submits that WP(C) 5181/2020, challenging the order, dated 20th July, 2020, of the learned IPAB, is listed before a learned Single Judge of this Court, today.

9. Accordingly, renotify this matter on 21st August, 2020.

10. As Mr. Tripathi seeks to place, on record, a response to this application opposing the prayer therein, issue notice on the application.

11. Notice is accepted by Ms. Rajeshwari, learned counsel appearing for the defendant.

12. Let a response to this application be filed on or before 17th August, 2020 with advance copy to learned counsel for the applicant, who may file rejoinder thereto, if any, at least 24 hours in advance of the next date.

13. The Registry is directed to ensure that if the counter affidavit



and the rejoinder are filed, within the time stipulated above, they are placed on record, before this Court, when the matter is listed next.

AUGUST 11, 2020
dsn

C. HARI SHANKAR, J.