

Sun Pharmaceutical Medicare Ltd vs Alenvision Pharma Pvt. Ltd & Anr on 28 August, 2025

Author: Manmeet Pritam Singh Arora

Bench: Manmeet Pritam Singh Arora

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CS(COMM) 908/2025 & I.A. 21163-68/2025
SUN PHARMACEUTICAL MEDICARE LTD

.....PL

Through: Mr. Sachin Gupta, Mr. Rohit Pra
Mr. Adarsh Agarwal, Ms. Prashan
Singh, Mr. Atal Anand, Ms. Mahi
and Mr. Ajay, Advocates

versus

ALENVISION PHARMA PVT. LTD & ANR.
Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA
ORDER

% 28.08.2025 I.A. 21165/2025 (seeking exemption from pre-institution mediation)

1. This is an application under Section 12A of the Commercial Courts Act, 2015 read with Section 151 of the Code of Civil Procedure, 1908 ['CPC'], filed by the plaintiff seeking exemption from instituting pre- litigation mediation.

2. Having regard to the facts that the present suit contemplates urgent interim relief and in light of the judgement of the Supreme Court in Yamini Manohar v. T.K.D. Keerthi¹, exemption from the requirement of pre- institution mediation is granted to the plaintiff.

3. Accordingly, the application stands disposed of. I.A. 21168/2025 (seeking exemption from advance service) (2024) 5 SCC 815 This is a digitally signed order.

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4. In view of the fact that the plaintiff has sought an ex-parte ad-interim injunction along with the appointment of a Local Commissioner, the exemption from effecting advance service upon the defendants is granted.

5. Accordingly, the application stands disposed of. I.A. 21166/2025 (seeking extension of time for filing of court fees)
6. This application under Section 149 of CPC has been filed by the plaintiff seeking extension of time for filing of Court fees.
7. Learned counsel for the plaintiff states that the court fees certificates will be deposited within three (3) days.
8. The time sought for is granted, failing which the consequences of Order VII Rule 11(b) CPC shall follow.
9. In view of the aforesaid, this application is disposed of. I.A. 21163/2025 (seeking exemption from filing clearer copies)
10. This application has been filed by the Plaintiff seeking exemption from filing clearer copies of documents, mentioned at paragraph 2 of this application.
11. The application is allowed, subject to plaintiff shall file legible and clearer copies of documents mentioned at paragraph 2 of this application, within two (2) weeks.
12. The application stands disposed of.

CS(COMM) 908/2025

13. The present suit has been filed by the plaintiff seeking permanent injunction restraining the infringement of trademark, passing off, unfair competition and other ancillary reliefs.
14. Let the plaint be registered as a suit.
15. Summons be issued to the defendants by all permissible modes on This is a digitally signed order.

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16. The summons shall indicate that the written statements must be filed within thirty (30) days from the date of receipt of the summons. The defendants shall also file affidavits of admission/denial of the documents filed by the plaintiff, failing which the written statements shall not be taken on record.
17. The plaintiff is at liberty to file replications thereto within thirty (30) days after filing of the written statements. The replications shall be accompanied by affidavits of admission/denial in

respect of the documents filed by the defendants, failing which the replications shall not be taken on record.

18. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

19. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

20. List the matter before the Joint Registrar (J) on 13.10.2025.

21. List the matter before the Court on 24.02.2026. I.A. 21164/2025 (Under Order XXXIX Rule 1 and 2 CPC)

22. The present application has been filed under Order XXXIX Rule 1 and 2 CPC seeking restraint against the infringement of plaintiff's registered trademark 'NAXDOM'.

23. Learned counsel for the plaintiff sets up the plaintiff's case as under:

23.1 The plaintiff is the subsidiary of Sun Pharmaceutical Industries Limited ('SPIL'). Plaintiff is ranked as the largest pharmaceutical company in India by sales and is ranked as 13 th largest in US generics market in March 2024.

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23.2 Plaintiff coined and adopted the trademark 'NAXDOM' in the year 2005, in respect of its medicinal and pharmaceutical preparations, and started using the said trademark in 2006. It also obtained registration of the said trademark vide Registration No. 1543913 dated 27.03.2007 in Class-5. The said registration is still subsisting.

23.3 The plaintiff's product under the trademark NAXDOM contains the salt Naproxen and Domperidone, which is used to treat migraine headaches. The said medicine is a Schedule H drug and is sold in the form of a tablet. 23.4 The plaintiff, at paragraph 14 of the plaint, has mentioned sales of the medicines sold under the trademark NAXDOM, demonstrating its continuous and extensive use of the said trademark and large sales of the said medicine.

23.5 It is the case of the plaintiff that in the first week of August 2025, the plaintiff found that the defendants are pharmaceutical companies, which are carrying on the infringing activities, by manufacturing and marketing its identical pharmaceutical preparations under the mark 'NEXADOM' (impugned mark), which is deceptively similar to that of the plaintiff's trademark, 'NAXDOM'.

23.6 It is stated that defendants no. 1, a company incorporated on 11.06.2020, is marketing the medicine under the impugned mark. Defendants no. 2, a company incorporated on 01.11.2022, is manufacturing the medicine under the impugned mark.

23.7 The medicine sold under the impugned mark contains the same molecule as that of the plaintiff's and is used for the treatment of the same ailment i.e., for treating migraine headaches.

23.8 It is stated that the plaintiff, after due-diligence, found that the This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 12/09/2025 at 22:14:14 defendants had filed an application for registration of the impugned mark NEXADOM under registration no. 5322634 dated 10.02.2022 in Class-5, filed on 'proposed to be used basis'. The said application was not advertised and, in fact, was objected² by the Trade Marks Registry in the First Examination Report ('FER') on 07.04.2022 at the very threshold on the ground that the same was deceptively similar to the plaintiff's mark NAXDOM. And the said application was refused by the Trade Marks Registry vide order dated 25.09.2023³. It is stated that to the plaintiff's knowledge, the said rejection order has not been challenged. 23.9 It is stated that merely substituting the alphabet 'A' with 'E' and inserting the alphabet 'A' in the plaintiff's trademark 'NAXDOM' to arrive at their impugned mark 'NEXADOM', shall cause confusion and deception in the minds of general public, since both the marks closely resemble to each other, and are visually, structurally, and phonetically similar to each other. 23.10 The defendants' adoption of the impugned mark 'NEXADOM', being in the same business of pharmaceuticals, selling the same medicine for treating the migraine headaches, as that of the plaintiff, is unethical and unlawful.

23.11 The products available in the market their manufacturing date of 2024, however, the plaintiff learnt about the product in August, 2025.

24. Learned counsel for the plaintiff places reliance on a coordinate Bench's order dated 22.05.2023 in CS(COMM) 453/2022, wherein the decree was granted in favour of the plaintiff's product NAXDOM against the defendant's product 'NAPDOM'. based on the settlement arrived Document at PDF page 67 Document at PDF page 68 This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 12/09/2025 at 22:14:14 between the parties therein, following and injunction order dated 07.07.2022 and plaintiff's exclusive rights in the mark NAXDOM was acknowledged.

25. The Court has heard the learned counsel for the plaintiff and has perused the record.

26. The plaintiff is the registered proprietor of the trademark 'NAXDOM' and has been using the said trademark, since 2006, for selling medicines treating the migraine headaches.

27. It is stated that the defendants' product available in the market bear the manufacturing year of 2024. In view of the FER dated 07.04.2022 and the order of the Registrar dated 25.09.2023, rejecting the Defendant's application for registration of the impugned mark 'NEXADOM', its use of the said mark thereafter does not stand to reason.

28. In view of the orders of the Trademark Registry, the plaintiff has a prima facie case in its favour. The rival marks 'NAXDOM' and 'NEXADOM' are visually and phonetically similar.

29. The plaintiff's drug in question is a scheduled drug and the Supreme Court in Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd⁴. at paragraph nos. 22, 25 and 27 has observed that in case of drugs the test of deceptive similarity has to be applied strictly so as to avoid confusion.

30. In the considered opinion of this Court, the plaintiff has been able to make out a good prima facie case in its favour. The balance of convenience is also in favour of the plaintiff and against the defendants. As it is a pharmaceutical product, the plaintiff and the general public are likely to suffer grave irreparable harm in case an ex parte ad-interim injunction is not granted.

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31. Accordingly, until the next date of hearing, the defendants, their directors, assignees in business, distributors, dealers, stockists, retailers/chemists, servants and agents or anyone acting on their behalf are restrained from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in medicinal and pharmaceutical preparations under the impugned mark NEXADOM, and/or any other mark deceptively similar to the Plaintiff's registered trade mark NAXDOM, amounting to infringement of the Plaintiff's registrations referred in Paragraph 11 of the plaint, and/or from passing off their goods as those of the Plaintiff.

32. Issue notice to the defendants through all permissible modes, upon filing of process fees, returnable on the next date of hearing.

33. Let the reply to this application be filed within a period of four (4) weeks, from receipt of notice.

34. Rejoinder thereto, if any, be filed within a period of four (4) weeks thereafter.

35. The issue of time bound disposal of the inventory of the products bearing the impugned mark will be considered on the next date of hearing.

36. In view of the fact that the plaintiff has sought appointment of Local Commissioner to seize the infringing goods, the very purpose of grant of ex- parte ad-interim injunction would be defeated if the defendants are given notices contemplated in Order XXXIX Rule 3 of CPC prior to the execution of the commission. Hence, it is directed that the plaintiff shall serve notice under Order XXXIX Rule

3 of CPC at the time of execution of the Local Commission, which shall not be later than two (2) weeks from today.

37. List the matter before the Joint Registrar (J) on 13.10.2025.

(2001) 5 SCC 73 This is a digitally signed order.

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38. List the matter before the Court on 24.02.2026. I.A. 21167/2025 (for appointment of Local Commissioner)

39. The present application has been filed by the Plaintiff under Order XXVI Rule 9 read with Section 151 CPC seeking appointment of a Local Commissioner.

40. The Court has granted an ad interim ex-parte injunction as recorded above in I.A. 21164/2025 under Order XXXIX Rules 1 and 2 of CPC.

41. In order to ensure that the injunction is fully complied with and to preserve the evidence of infringement, this Court deems it appropriate to appoint Local Commissioner to visit the premises of the defendants, at the address, as mentioned in the application.

42. Ms. Shivangi Sinha, Advocate [Mob. No.- 8376930451, Enrl. No. D/7774/2023] is appointed as a Local Commissioner, with a direction to visit the following premise of the defendants: -

AVALON MEDICINES PVT. LTD.

REGISTERED OFFICE AT:

119, SECTOR 15, SONEPAT SONIPAT, HARYANA-131001

43. The mandate of the Local Commissioner is as under:

i. The Local Commissioner shall visit the premises of the defendants as mentioned above, to inspect and seize any infringing goods, fully or semi-manufactured infringing goods of the defendants bearing the impugned mark 'NEXADOM' which is identical or deceptively similar to the Plaintiff's trademark 'NAXDOM'.

ii. The Local Commissioner is permitted to seize the infringing goods at the above premises and if knowledge is acquired of any other premises where the goods could be stored, the Local Commissioner is This is a digitally signed order.

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iii. The Local Commissioner shall also inspect and seize any goods/materials including pamphlets, brochures, stickers, packaging materials, used for preparing the manufacturing unfinished, packed, unpacked impugned goods or any other documents, etc. so that it can be ensured that no fresh manufacturing of the infringing goods bearing the impugned mark can take place.

iv. The Local Commissioner shall also obtain the details as to since when infringing goods bearing the impugned mark are being used by the defendants under the mark 'NEXADOM' and obtain copies of the accounts, if the same is found to be sold in market. v. The Local Commissioner shall obtain accounts including ledgers, stock registers, invoice books, receipt books, cash books, purchase and sale records and any other books of record or commercial transactions kept at the premises of the defendants and take photocopy and/or record of all such transactions that pertain to infringing goods bearing the impugned mark, if any. The defendants shall cooperate and give passwords to the computers and the files containing the accounts, if the same is stored on the computer or a specific software. vi. After preparation of the inventory, of the infringing goods bearing the impugned mark 'NEXADOM' in fully manufactured or unfinished condition, including packaging materials, advertising, promotional materials, pamphlets, brochures, boxes, signage, cartons and other material bearing the 'NEXADOM' mark & packaging which are similar to the Plaintiff's trademark 'NAXDOM' shall be released to This is a digitally signed order.

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vii. The Local Commissioner is also permitted to break open the locks, with the help of the local police, if access to the premises where the infringing goods bearing the impugned mark have been stocked/manufactured, is denied to the Commissioner.

viii. Upon being requested, the concerned, the Commissioner of Police/Superintendent of Police for Sonipat, Haryana shall render necessary cooperation for execution of the commission, as per this order.

ix. The Local Commissioner is permitted to take photographs and videography of the proceedings of the commission, if it is deemed appropriate. Two representatives of the plaintiff, which may include a lawyer, are permitted to accompany the Local Commissioner. x. The Local Commissioner, while executing the commission, shall ensure that there is no disruption to the business of the defendants, except for the

purposes of the execution of the commission. The commission shall be executed in a peaceful manner. xi. Copy of the order and complete paper book shall be served by the Local Commissioner upon the defendants at the time of execution of commission.

44. The order passed today shall be communicated by the Local Commissioner to the defendants.

45. The fees of the Local Commissioner is fixed at Rs. 2,00,000/- excluding out of pocket expenses, including travel, accommodation etc., which is to be borne by the plaintiff.

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46. The Local Commission shall be executed within two (2) weeks. The report of the Local Commissioner shall be filed within two (2) weeks thereafter.

47. The order passed today, shall not be uploaded for a period of two (2) weeks for enabling the execution of the commissions.

48. In terms of the foregoing, the present application stands disposed of.

49. Copy of this order be given dasti under the signatures of the Court Master.

MANMEET PRITAM SINGH ARORA, J AUGUST 28, 2025/rhc/AM This is a digitally signed order.

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