

Sun Pharma Laboratories Limited vs Fertilesure Pharma on 24 September, 2025

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5 IA(L) - 4744 - 2025.DOC

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION (L) NO. 4744 OF 2025
IN
COMMERCIAL IP SUIT (L) NO. 4713 OF 2025

Sun Pharma Laboratories Limited ... Applicant/Plaintiff
Vs.
Fertilesure Pharma ... Defendant

Archita Gharat, Ms. Niyati Davawala, Mr. Anil Shete, Ms. Dixita Singh i/b
Davawala and Co. for Plaintiff.
Mr. Nihar D. Bhuva, Defendant No. 2, proprietor of Defendant No. 1-present in
Court.
Mr. Deepak Bhalerao, Second Assistant to Court Receiver present.

CORAM : ARIF S. DOCTOR, J.

DATE : 24th SEPTEMBER 2025

P.C.

1. By previous order passed today, suit was decreed qua Defendant Nos. 1 and 2.
2. Learned counsel appearing on behalf of Applicant/Plaintiff further invited my attention to order dated 22 nd August, 2025 by which the Interim Application was stood over today by making it clear that if none appears on behalf of Sairaj 2/5 5 IA(L)-4744-2025.DOC Defendants on today's date, the Court will proceed to take up the Interim Application for final disposal.
3. Learned counsel appearing on behalf of Applicant/Plaintiff has placed reliance on Affidavit-of-service dated 4 th September, 2025 by which the Defendant No. 3 was intimated of today's date of hearing in compliance as also the order dated 22nd August, 2025. Despite this, none appears on behalf of Defendant No. 3. It is in these circumstances that learned counsel appearing on

behalf of Applicant/Plaintiff has today pressed for Interim Application to be made absolute in terms of prayer clauses (a), (b) and (c) qua Defendant No. 3.

4. Having heard learned counsel appearing on behalf of Applicant/Plaintiff and having perused the previous orders and also having noted the fact that Defendant No. 3 though served on more than one occasion has not entered appearance, I see no reason why the Interim Application should not be made absolute against Defendant No. 3 as prayed for, hence, Interim Application is allowed in terms of prayer clauses (a), (b) and (c) which reads thus:-

"a) that pending the hearing and final disposal of the suit, the Defendants by themselves, their proprietors, partners, directors, affiliates, associate/s, sister/group companies, divisions, employees, servants, agents, dealers, stockiest, super-stockiest, distributors, wholesalers, retailers, custodians, assignees, franchisees, licensees, predecessors, successors, e-commerce and warehouse aggregators and all persons claiming through and/or under it or acting on their behalf and all those connected with them in their business be restrained by a temporary order and injunction of this Hon'ble Court from using in any manner Sairaj 3/5 5 IA(L)-4744-2025.DOC in relation to their medicinal and pharmaceutical preparations the impugned marks "LUPRIDE SURE/LUPRIDE SURE DEPOT" and/or trademark containing the impugned marks or any mark deceptively similar thereto and/or any mark identical and/or deceptively similar to the Plaintiff's said trademarks "LUPRIDE DEPOT"

and "LUPRIDE" registered under Nos. 1110783 and 2356941 in class 05, so as to infringe the Plaintiff's registered trademarks;

b) that pending the hearing and final hearing of the suit, the Defendants by themselves, their proprietors, partners, directors, affiliates, associates, sister/group companies, divisions, employees, servants, dealers, stockiest, super- stockiest, distributors, wholesalers, retailers, custodians, agents, assignees, franchisees, licensees, predecessors, successors, e-commerce and warehouse aggregators and all persons claiming through and/or under it or acting on their behalf and all those connected with them be restrained by a temporary order and injunction of this Hon'ble Court from trading, using, manufacturing, stocking, selling, marketing, promoting, advertising, distributing, exporting, importing, exhibiting, displaying and/or offering for sale or otherwise in shops or on their own website or any other website owned, managed and/or controlled by the Defendant/s or on any other e- commerce platforms/sites or websites and/or using in any manner in relation to their medicinal and pharmaceutical preparations the impugned marks "LUPRIDE SURE/LUPRIDE SURE DEPOT" and/or trademark containing the impugned marks and/or any mark identical and/or deceptively similar thereto and/or any mark identical and/or being deceptively and/or being confusingly similar to the Plaintiffs said trademarks "LUPRIDE DEPOT" and Sairaj 4/5 5 IA(L)-4744-2025.DOC "LUPRIDE" so as to pass off or enable others to pass off the Defendants goods as and for that of the Plaintiff;

c) that pending the hearing and final disposal of the suit, the Court Receiver, High Court, Bombay or such other fit and proper person as this Hon'ble Court thinks fit, be appointed with all powers under

Order XL Rule 1 and Order XXXIX Rule 7 of the Code of Civil Procedure, 1908 to forcibly enter, to attend and search the premises, shops, offices, factories, godowns, warehouses of the Defendants, their proprietors, directors, servant, agents, dealers, stockist, super-stockiests, distributors, wholesalers, retailers, custodians, agents, assignees, franchisees, licensees, predecessors, successors, e-commerce and warehouse aggregators and all persons claiming through and/or under it or acting on their behalf or any other person/s and all other premises across the country at any time of the day (even on Sundays, Court holidays and vacations) or night without notice to the Defendants and with the help of the local police authorities, if necessary, with no costs to the Plaintiff, to break open the lock/s if deemed necessary where the products bearing the impugned marks "LUPRIDE SURE/LUPRIDE SURE DEPOT"

and/or trademark containing the impugned marks and/or any other identical and/or deceptively similar mark to the Plaintiff's said trademarks may be stocked or are lying and to make an inventory, seize and take possession/custody thereof and also of all plates, moulds, dies, blocks, cartons, stripes, labels, stickers, manufacturing and production registers, invoices, purchase orders, sales ledger, production details including the batch details, books of accounts maintained in the ordinary course of their businesses, product/ manufacturing license, printing and packaging and advertisement and promotional material Sairaj 5/5 5 IA(L)-4744-2025.DOC pertaining thereto and the Defendants, their officers, employees, dealers, agents, stockiest, distributors and servants be ordered and directed to deliver up all of the aforesaid to the Court Receiver/Special Receiver or to such other fit and proper person as this Hon'ble Court thinks fit and the Receiver shall be entitled (if he considers appropriate or necessary) to avail of police protection or assistance in implementing the aforesaid act and the concerned Police Station be ordered and directed to provide free of cost adequate Police protection to the Court Receiver/Special Receiver and Advocates and the representatives of the Plaintiff for effective and prompt implementation of the order"

5. Interim Application is disposed of in the aforesaid terms.

(ARIF S. DOCTOR, J.) Sairaj