

IN THE HIGH COURT OF SINDH AT KARACHI

H.C.A. No.313 of 2022

Galaxy Pharma (Private) Limited***v/s.******AGP Limited & others***

Date	Order with signature of Judge
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Present:**Mr. Justice Aqeel Ahmed Abbasi****Justice Mrs. Kausar Sultana Hussain**

1.For hearing of main case.

2.For hearing of CMA No.3005/2022

29-09-2022

Mr.Hyder Ali Khan along with Sami-ur-Rehman Khan and Mr.Shaheer Roshan, Advocates for Appellant.

Mr.Abdul Sattar Pirzada and Mr.Mamoon N. Choudhary, Advocates for Respondent Nos.1 and 2.

Mr.Hakim Masood, Federal Drug Inspector is present in person.

ORDER

Learned counsel for the parties after arguing at length and the perusal of the record as well as the impugned order dated 08.09.2022 passed by learned Single Judge in Suit No.2707 of 2021 on injunction application (CMA No.19999/2021), instant High Court Appeal is disposed of in the following terms:-

(a) That while holding the adverse observations made by the learned Single Judge in the impugned order with regard to non-existence of the agreement dated 16.06.2016 between the appellant and M/s.Basins

Healthcare (Hong Kong) Limited given in paragraph 2 at page 5 of the impugned order i.e. “undoubtedly and undisputedly the circumstances governed by an agreement no longer exists to enable defendant No.1 to continue using the registration.” Any adverse observation with regard to non-existence of the agreement are hereby expunged.

(b) The Drug Regulatory Authority of Pakistan (DRAP) may proceed pursuant to show cause notice dated 16.09.2022, however, without being influenced by any adverse observation made by the learned Single Judge with regard to contents of the distribution agreement independently in terms of Section 7 of the Drugs Act, 1976 and after providing ample opportunity of being heard to all the concerned parties may pass appropriate order in accordance with law preferably within 15 days from the date of hearing the parties in this regard. Whereas, the appellant may submit fresh response, if so desire within 15 days from the date of this order, thereafter, appropriate order may be passed within another 15 days subject to further relief as may be sought by the parties in accordance with law.

(c) The order as may be passed by the DRAP authorities in the instant case will be without prejudice

to the rights and liberties of the parties and similar consequential order may be passed by the learned single Judge will also be subject to further relief as may be sought by the parties in accordance with law.

It is clarified that the proceedings in the instant matter may not affect the rights and liberties of the parties in the suit had earlier decided.

2. At this juncture, learned counsel for the parties submit that directions may be issued to the learned Single Judge to pass appropriate order on the all pending applications. Learned counsel for the parties are directed to appear before the learned Single Judge and may make such request for disposal of pending applications to an early date. It is expected that the learned Single Judge may pass appropriate order within a period of 4 weeks from the date of hearing of such applications.

3. Instant High Court Appeal is disposed of in the above terms.

Judge

Judge

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