

ITEM NO.67

COURT NO.8

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 9220/2015

(Arising out of impugned final judgment and order dated 20/03/2015 in FAO No. 190/2013 passed by the High Court Of Delhi At New Delhi)

GLENMARK PHARMACEUTICALS LTD.

Petitioner(s)

VERSUS

MERCK SHARP AND DOHME CORPORATION & ANR.

Respondent(s)

(With appln. (s) for permission to file additional documents and permission to file synopsis and list of dates and interim relief and office report)

Date : 15/05/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s) Dr. A.M. Singhvi, Sr. Adv.
Mr. Rajiv Kumar Virmani, Sr. Adv.
Ms. Saya Choudhary Kapur, Adv.
Mr. Saurabh Anand, Adv.
Ms. Anusuya Nigam, Adv.
Ms. Anindita Mitra, Adv.
Mr. Aditya Jayaraj, Adv.
Mr. L. Nidhiram Sharma, Adv.
Mr. Gaurav Sharma, Adv.

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.
Mr. T.R. Andhyarujina, Sr. Adv.
Mr. Amit Sibal, Sr. Adv.
Mr. R.N. Karanjawala, Adv.
Ms. Ruby Singh Ahuja, Adv.
Mr. Pravin Anand, Adv.
Ms. Archana Shankar, Adv.
Ms. Deepti Sarin, Adv.
Mr. Karan Dev Chopra, Adv.
Mr. Soumik G. Adv.
Ms. Tusha Malhotra, Adv.
Mr. Salim Imandar, Adv.

Ms. Aakanksha Munjal, Adv.
Ms. Uditia, Adv.
For M/s. Karanjawala & Co., Adv.

UPON hearing the counsel the Court made the following
O R D E R

We have heard the learned counsels for the parties. On the very limited question of continuance or otherwise of our earlier interim order. We have taken note of the materials placed before us in terms of our order passed yesterday i.e. 14th May, 2015.

At this stage, we would not like to enter into a detailed discussion of the merits of the order of the Learned Division Bench of the High Court and our primary concern would be to balance the equities between the parties while maintaining public interest. In our view, in the present case the above would be best served if the existing stock of the two products viz. ZITA and ZITAMET are allowed to be sold in the market which, according to the petitioner itself, can take care of the current demand in the market for five to six months i.e. September-November, 2015. Going by the prima facie satisfaction recorded by the High Court, we are of the view that the unfinished formulation of Sitagliptin Phosphate Monohydrate (SPM)

which is to be processed in the petitioner's factory/factories will not be undertaken for the present and until the next date fixed. Insofar as the petitioner's commitment for institutional supplies is concerned, the volume of which in any event does not appear to be very huge, if required, the same may be put on hold until the next date fixed.

Pursuant to our order passed yesterday, the Registrar General of the Delhi High Court is personally present in Court. He has been of immense assistance to the Court and has readily laid before us the requisite information called for by us yesterday. We request the Registrar General of the Delhi High Court to bring the difficulties highlighted before us with regard to recording of evidence in Original Suits before the Hon'ble Chief Justice of the High Court for necessary remedial action. Insofar as the present suit is concerned, we direct the Local Commissioner to record evidence on a day-to-day basis commencing from 20th May, 2015 and complete the recording of the evidence of both sides including cross-examination on or before 30th June, 2015. Both the parties will cooperate and any perceptible lack of cooperation by either side will be noticed and recorded by the Local Commissioner to be

placed before us. If required, the Local Commissioner will arrange a Special Venue for conduct of the proceedings before him which shall be held from 10.00 a.m. to 5.00 p.m. with the usual break(s). If the Local Commissioner is otherwise overburdened on account of other commitments and is not in a position to comply with the time frame fixed by this Court, the learned trial judge shall be informed immediately and the learned trial judge may pass appropriate orders in the matter for appointment of a suitable Local Commissioner. In the event the learned trial judge is not available to pass necessary orders replacing the Local Commissioner we authorize the Registrar General of the Delhi High Court to pass necessary orders in the matter.

We make it clear that we expect the Local Commissioner appointed by the High Court to complete the recording of the evidence in the matter on and before 30th June, 2015 and the learned trial judge to commence hearing the arguments on and from 6th July, 2015 on a day-to-day basis.

The present matter will be considered by us again on 22nd July, 2015.

We make it clear that we have taken a little

unusual and extraordinary course of action in ordering the above time schedule. This has been prompted by our desire to ensure that highly contested commercial cases, in which category this instant case can be put, requires immediate attention and disposal to ensure a suitable commercial environment which is vital to national interest. Our above directions, therefore, will be construed to be in exercise of our jurisdiction under Article 142 of the Constitution.

(MADHU BALA)
COURT MASTER

(ASHA SONI)
COURT MASTER