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REVISITING DIVISIONAL PATENT APPLICATIONS: THE PLURALITY OF INVENTIONS DEBATE IN INDIA



Adv. Divyendu Verma

In India, divisional applications can be filed under certain conditions, and these conditions are primarily governed by Section 16 of the Indian Patents Act, 1970.

Section 16 provides:

16: Power of Controller to make orders respecting division of application:

(1) A person who has made an application for a patent under this Act may, at any time before the grant of the patent, if he so desires, or with a view to remedy the objection raised by the Controller on the ground that the claims of the complete specification relate to more than one invention, file a further application in respect of an invention disclosed in the provisional or complete specification already filed in respect of the first mentioned application.

(2) The further application under sub-section (1) shall be accompanied by a complete specification, but such complete specification shall not include any matter not in substance disclosed in the complete specification filed in pursuance of the first mentioned application.

(3) The Controller may require such amendment of the complete specification filed in pursuance of either the original or the further application as may be necessary to ensure that neither of the said complete specifications includes a claim for any matter claimed in the other.

Here are the key points related to filing divisional patent applications in India:

- **Unity of Invention:** The main condition for filing a divisional application in India is that the parent application should relate to more than one invention.

If the claims in the original application relate to multiple inventions, the applicant may be required to restrict the application to a single invention. In such cases, the applicant can file one or more divisional applications to cover the remaining inventions disclosed in the original application.

- **Timely Filing:** Divisional applications should be filed during the pendency of the original (parent) application. Once the original application has been granted or refused, divisional applications cannot be filed.
- **Disclosure of the Invention:** The subject matter of the divisional application should have been disclosed in the original (parent) application. The divisional application cannot introduce new subject matter.
- **No Double Patenting:** The divisional application should not result in double patenting with the original application. In other words, the same invention cannot be claimed in both the parent and divisional applications.
- **Request for Examination:** A divisional application must follow the examination process, which includes filing a separate request for examination within 6 months from the date of filing of Divisional Application.
- **Rights and Priority:** The divisional application is considered an independent application with its own set of rights and priority based on the filing date of the original application.
- **Term of Protection:** The term of protection of a divisional patent is 20 years from the filing date of the original application or 20 years from the priority date, whichever is earlier.

Filing divisional applications is a strategic approach to protect different inventions disclosed in a single original application, ensuring that each invention is examined and protected separately. It allows applicants to maximize the value of their intellectual property.

The above information was in practice until 2022 when a single bench judge of the Delhi High Court in **Boehringer Ingelheim International GMBH v. The Controller of Patents, 2022 SCC Online Del 3777**, held that a divisional application would not be maintainable if it does not contain a plurality of inventions within the claims of the parent application. The single judge also emphasized that allowing divisional applications when multiple inventions are not claimed in the original application would contradict the fundamental principle of patent law, which is “**what is not claimed is disclaimed**”.

However, another single bench judge of the Delhi High Court disagreed with the above judgement in the matter of – **Syngenta Limited v. The Controller of Patents and Designs, C.A.(COMM.IPD-PAT) 471/2022**, referred the matter to the division bench (two judge bench) with two questions:

- *Is the condition of plurality of inventions in the parent application, applicable even where the divisional application is filed by the applicant suo moto, and not based on any objection raised by the Controller?*
- *Assuming that the requirement of plurality is necessary for a divisional application to be maintainable, does the plurality have to be reflected in the claims in the parent application or is it sufficient if the plurality is reflected in complete specification?*

At the time of the referral, the single bench judge of the Delhi High Court in the **Syngenta case** made an observation and noted that the **Boehringer case** essentially reinterprets Section 16 of the Patents Act, 1970 by removing the phrase “disclosed in the provisional or complete specification already filed” and replacing it with “claims,” which cannot be legally justified. The Single bench judge also pointed out that the question of whether a plurality of inventions is encompassed in the original claim must be raised by the applicant *suo moto*.

The Division Bench (2 Judge Bench) of the Delhi High Court in the case of

Syngenta Limited v. The Controller of Patents and Designs, C.A.(COMM.IPD-PAT) 471/2022

(Judgement dated 13 October 2023), held that:

1. The Division Bench first emphasized that the evaluation of filing a divisional application, whether initiated by the Applicant voluntarily or in response to an objection by the Controller, should follow the same criteria. This stance contradicted

the perspective expressed by the Single Judge in the **Syngenta case**, which suggested treating these two categories differently, thus rejecting the observation of the Single Judge in the Syngenta case.

2. The Division Bench, secondly, pointed out that there seems to be no valid reason to confine the filing of a divisional application solely to scenarios where the plurality of inventions is explicitly mentioned in the claims. Such an interpretation contradicts the clear language of Section 16 of the Act, which references inventions “**disclosed in the provisional or complete specification.**” The Bench reasoned that, in the case of a provisional filing, claims may not yet exist, and thus, adhering to the **Boehringer** rationale would imply that no divisional application could be submitted when a provisional specification is involved. The Bench also clarified that the principle of “**what is not claimed is disclaimed**” primarily applies to claim drafting and is less relevant to infringement analysis.

The Bench accordingly overruled the **Boehringer decision** and established that the maintenance of a divisional application is permissible in either of the two circumstances: (i) voluntary divisional filing by the applicant or (ii) filing of divisional application in response to an objection raised by the Controller regarding plurality of inventions. This allowance, however, is contingent on the condition that the existence of multiple inventions can be substantiated based on the disclosures contained within either the provisional or the complete specification.

DUXLEGIS ATTORNEYS HEADING TO GAIN EXPERTISE IN INDIAN PRIVACY LAWS

In the month of August, the Indian Parliament enacted the Digital Personal Data Protection Act (DPDPA) of 2023 to address data protection and privacy concerns in India. Initially, the bill went through many review sessions, and finally it has been enacted on 11 August 2023. It outlines a foundation for handling and safeguarding digital personal data and respects the necessity of processing such data for legitimate purposes and other related purposes.

We are glad to share that, DuxLegis Attorneys heading to achieve expertise in the privacy laws as recently our associate has successfully completed a certificate cohort on Data Protection & Privacy Laws. It includes insights from the EU's General Data Protection Regulations (GDPR), which is a global benchmark for personal data protection and privacy laws, and India's Digital Personal Data Protection Act (DPDPA), 2023. The structured curriculum of the course expanded the understanding of the act while providing a wide overview of personal data protection and its compliance associated with the stakeholder's obligations provided in the act. It was a great learning experience, and it has helped to acquire knowledge and practical understanding of the EU's General Data Protection Regulations (GDPR), along with the understanding about transitions took place in Indian privacy laws from the IT Act of 2000 to the Digital Personal Data Protection Act (DPDPA) of 2023. Learning about privacy regulations and their implications would be beneficial for the firm as well as the clients associated with the firm.

Moreover, here are some key components of this statute which provides thorough insights of the act. Before moving to the key components there are some stakeholders which plays crucial part in the compliance of the act are as follows:

- **Data Principals – Section 2(j)** An individual to whom the personal data relates and in the case of child (Age below 18 years) includes its parent or lawful guardian of such child. In case of person with disability includes its lawful guardian.
- **Data Fiduciary – Section 2(I)** An individual or an entity that decides the means and purpose of the data processing.
- **Data Processor – Section 2(k)** It denotes an individual who processes personal data on behalf of a data fiduciary.

KEY COMPONENTS OF THE ACT

Applicability:

According to section 3 of the Act, confirms that it only applies to digital personal data. Specifically, it applies to:

- Processing of digital personal data outside the territory of India, if such processing is in connection with any activity related to the offering of goods or services to data principals within the territory of India. [Section 3 (b)]

Consent Notice:

Before collecting personal data, the Data Fiduciary must request for consent and issue an itemised notice providing following information. [Section 5 (1)].

- The personal data and the purpose for which the same is proposed to be processed. [Section 5(1)(I)]
- The manner in which she may exercise her rights. [Section 5(1)(ii)]
- The manner in which the Data Principal may make a complaint to the Board, in such manner and as may be prescribe. [Section 5(1)(iii)] According to section 6 (3) When seeking consent from a data principal the Act highlights that this must be clear and in plain language and, give her the option to access such request in English or any **language specified in the Eighth Schedule to the Constitution of India** and providing the contact details of a Data Protection Officer wherever applicable.

DUXLEGIS ATTENDED APAA ANNUAL MEETING 2023 IN SINGAPORE

DuxLegis, a prominent player in the field of Intellectual Property Rights in India, made a profound presence at the 20th General Assembly and 74th & 75th Council Meetings of the Asian Patent Attorneys Association (APAA) held in Singapore, from November 03 to 07, 2023. More than 1,400 registered distinguished professionals and experts from over 65 countries intellectual property community has marked their presence, offering a unique platform for knowledge exchange and collaboration.



Mr. Divyendu Verma, the Managing Partner of DuxLegis Attorneys, has represented the firm. We proudly announce that Mr. Divyendu Verma has been elected as a member of copyright standing committee for period of 3 years effective from November 2023. This election not only highlights the firm's dedication to excellence but also showcases the expertise of its partners in the ever-evolving realm of intellectual property rights.



At the 20th General Assembly on 7 November 2023, Mr. Hari Subramaniam from India has appointed as the 14th President of APAA.



DuxLegis had most enlightening meetings with expertise in IP field during the 2023 APAA Meeting in Singapore. The event was successful with informative academic sessions, workshops, and roundtables.

DuxLegis's presence at the APAA annual meeting marked a successful networking opportunity and celebration of their substantial contribution to the field. As the firm continues to make strides in the intellectual property realm, the election as a committee member is a crowning achievement of the firm, solidifying its position as a key player in the industry.



IP SNIPPETS:

PATENT CASES:

FILO EDTECH INC (Appellant) vs UNION OF INDIA & ANR. (Respondents)

Case Number: C.A.(COMM.IPD-PAT) 30/2023
Decided on: 21 November 2023

In the present case the appellant had filed an application for grant of patent before the Mumbai Patent Office. Following to which the patent office assigned the application to the Controller sitting at the Delhi Patent Office to examine the application. Examination of the application, First Examination Report (FER), response to FER and notice of hearing and rejection of the appellants application was issued by Delhi Patent office. Thereafter the appellant has filed an appeal against the impugned order under Section 117A of the Patents Act, 1970 before Delhi High Court. The respondent raised an objection that the appeal would lie before the High Court of Bombay by placing reliance on Office Order No. 15 and Office Order No. 34 of 2016. The respondent further submits the reliance by the learned Coordinate Bench on Rule 4 which stipulates that “appropriate office” once decided shall not ordinarily be changed, so for appellant the appropriate office for registration of the patent from start to finish remained the Mumbai Patent Office therefore the appeal under Section 117A would also lie before the High Court of Bombay.

The Hon'ble Court observed the following issue and stated that the appropriate office for filing and prosecuting the appeal for the present application should be same as the Jurisdiction of the present application, i.e., High Court of Bombay by virtue of Rule 4(1)(b), read with Rule 4(2) of the Patent Rules, following the decision of the coordinate Bench in *Dr. Reddy's Laboratories*.

The Court concluded that the appropriate High Court to hear and entertain the appeal under Section 117A is the High Court of Bombay.

BIOTRON LIMITED (Appellant) vs THE CONTROLLER GENERAL OF PATENTS & DESIGNS & ANR (Respondent)

Case Number: IPDPTA 61 OF 2023
Decided on: 17 November 2023

The current appeal has been filed by the appellant against the respondent for rejecting the appellant's patent application. The appellant has filed the patent application for an invention claiming the novel

composition of compounds effective against treating and preventing viral infections. Objection were raised in First Examination Report (FER) and appellant submitted the reply to the FER following to which hearing was fixed. The impugned order has been passed by the respondent rejected the invention on the ground of lack of inventive steps under sections 2(1) (j) and 2(1) (ja) of the Act, insufficient disclosure under section 10(4) of the Act and non-patentable subject matter under section 3(d) of the Act. The respondent also stated that repeated amendments were carried out by the appellant resulting in change of the original product.

The Hon'ble Calcutta High Court observed the following impugned order and noted that drug development is a lengthy process and such amendments are permissible under section 59(1) of the Act whether by way of disclaimer, correction, or explanation and the said amendments does not amount to self-admission or acceptance of lack of novelty or inventive steps. The Hon'ble Court concluded that the impugned order is unsustainable and therefore set aside, the Court further ordered to reconsider the patent application including the question of patentability and to give an opportunity of hearing to the appellant.

ITW GSE APS & ANR. (Plaintiff) vs DABICO AIRPORT SOLUTIONS PVT LTD & ORS.

Case Number: CS(COMM) 628/2023, I.A. 17216/2023, I.A. 17217/2023, I.A. 17218/2023 & I.A. 17219/2023
Decided on: 1 November 2023

In the present case the plaintiff seeks an appointment of a local commissioner to visit to the premises of defendant 1 and 4 to carry out an investigation. The plaintiff alleged that the Preconditioned air unit (PCAs) manufactured by the defendant was the infringement of plaintiff's Indian patent bearing application number, IN 330145 (IN'145). The plaintiff has also mapped the features of the PCAs unit manufactured by the defendants by comparing the claims of the suit patent with the defendants brochure, instruction manual and a request for proposal issued by the defendant. The defendants' responded that such an exercise of appointing local commissioner to visit the premises is an abuse of process and invading of defendants confidential data and hence prayed for rejection of the present application. The Hon'ble Court observed the following case and stated that “It is settled position of law that Court Commissioner cannot be appointed to collect evidence in support of a claim. After completion of evidence on both the sides, if it is found that there is any ambiguity in the evidence adduced by the parties, then the Court may appoint a Commissioner for the purpose of clarification of such an ambiguity”. The Hon'ble Court concluded that a Court cannot travel outside the legitimate boundaries of the CPC and act as an agent, even unwittingly, for either side to gather evidence to support the case that it seeks to set up against the other. The Court does not appoint the local commissioner

with a view to secure evidence to support the case of either party. The Court appoints the local commissioner, under Order XXVI Rule 10A of the CPC, only to conduct a scientific investigation where, in the opinion of the Court, such scientific investigation is necessary.

Hence the Hon'ble Court has dismissed an application seeking the appointment of a Local Commissioner.



TRADEMARK CASES:

SCRUM ALLIANCE, INC (Plaintiff) vs MR. PREM KUMAR S. & ORS. (Defendants)

Case Number: CS(COMM) 700/2021
Decided On: 21 November 2023

The present suit was filed by the plaintiff to restrain the defendants from using its trademark and its associated logo. The plaintiff alleged that the defendants were utilizing marks and logos that are closely similar to their own mark and lead to potential confusion in the domain. The defendants claimed that there is no confusion between the marks and logos and cited Section 76 of the Trade Marks Act, which deals with acts not constituting infringement of CTMs, as part of their defense against the plaintiff's plea for relief. The Hon'ble Court observed that the opening words of Section 76(3) indicate that it applies in a case "where a certification trademark is one of two or more trademarks registered under this Act". The Hon'ble High Court further observed that the words "is one of" are of significance and that they indicate that Section 76(3), in order to apply, does not require both the rival marks to be registered CTMs. In that context, it was further said that all that it requires is that both the marks must be registered under the Trade Marks Act. However, the Court further clarified that Section 76(3) would not come to the release the defendants "CERTIFIED SCRUM MASTER" or logo marks, as they were not registered in favor of any of the defendants, either as CTMs or as ordinary trademarks. The Hon'ble High Court granted an interlocutory injunction in favor of plaintiff and restrained defendants from using the plaintiff's trademark and its associated logo.



MAHLE GMBH (Petitioner) vs PARAG KIRNKUMAR TATARIYA & other(s) (Respondents)

Case Number: R/SPECIAL CIVIL APPLICATION NO. 11855 of 2021
Decided On: 09 November 2023

The present writ-application was filed by the petitioner invoking Article 226 of the Constitution of India, which seeks to challenge the registration of mark in respect of Lubricants Oil and Grease included in Class-04 on the Register of Trademark. The petitioner claimed prior registration of the mark and alleged that the respondent's registration of a similar "MAHLE" mark is bound to cause confusion during trade. The petitioner also alleged nonuse of the impugned mark and thus prayed for rectification of the register. The Hon'ble Gujarat High Court found that the respondent's non-use of the mark during the specified period rendered it liable for cancellation. The Hon'ble High Court noted that the mark "MAHLE" which is registered by the respondent is clearly a mark which is identical in all respect to the writ-applicant and the applicant is not a true proprietor of the impugned mark under section 18(1) of the Act. Hence, the Hon'ble High Court stated that though the respondent is a registered proprietor having not used the mark for more than 05 years, the same is required to be removed from the register. The Hon'ble Court has inclined to exercise extraordinary jurisdiction under Article 226 of the Constitution of India and allowed the present writ-application.



PATANJALI AYURVED LTD (Appellant) vs META PLATFORMS INC & ORS. (Respondents)

Case Number: FAO 280/2023, CM APPL. 56965/2023
Decided On: 07 November 2023

The present appeal has been filed by the appellant to assail the impugned order dated 28 July 2023. Its grievance was that a video has been uploaded by respondents on the Internet platforms. The alleged video is an advertisement of men's undergarment, wherein appellant's trademark along with pictures of its brand ambassadors and directors are shown used unauthorisedly. Upon hearing the case, the Learned Trial Court held this case as of commercial nature. In the averments of plaintiff, it is mentioned that the present case is not only about infringement of their trademark, but also defamation and disparagement towards its brand ambassadors. The Learned Trial Court has passed an order in which the plaint has been returned purportedly in the exercise of powers under Order VII Rule 10 CPC. The Hon'ble Delhi High Court observed that noted that on a



careful perusal of the previously mentioned provision in the C.P.C., reverting to the instant matter, it is but evident that the Learned Trial Court did not follow the mandate provided under Order VII Rule 10A (1) of the CPC. The Trial Court never invited any query from them regarding the application and that the impugned order has been passed Suo motu without hearing them on certain grounds. Since the amended Rule 10A to Order VII CPC was not followed, the impugned order cannot be sustained. Hence, the Hon'ble High court directed the Trial Court to hear the parties afresh and decide the issues involved in the suit afresh after hearing the parties.

NILKAMAL CRATES AND CONTANERS & ANR. (Plaintiffs) vs MS. REENA RAJPAL & ANR. (Defendants)

Case Number: CS(COMM) 707/2023
Decided On: 06 November 2023

The present application was filed by the plaintiffs to restrain defendants from using “NILKRANTI” as a wordmark as well as a device mark which is deceptively similar to the plaintiffs registered trademark “NILKAMAL”. Plaintiffs submitted that defendants have clearly acted mala fide, as is apparent from the deceptive similarity between the “NILKRANTI” logo that they have adopted and the pre-existing “NILKAMAL” logo of the plaintiffs. Plaintiffs further asserted that it could be considered phonetically similar to the defendant has used prefix “NIL”. The Hon'ble Delhi High Court has observed that the device marks, when compared, are deceptively and confusingly similar and being written in similar blue letters and the covering of font. Subsequently, the defendants were restrained from using the device mark or any similar mark but were allowed to continue using the word mark NILKRANTI, and thus no case of infringement is made out. Hence, the Hon'ble court disposed of the present application, by restraining defendants from using the impugned device mark and by rejecting the prayer for injunction in respect of the word mark “NILKRANTI”.



NEW BALANCE ATHLETICS INC. (Plaintiff) vs NEW BALANCE IMMIGRATION PRIVATE LIMITED (Defendant)

Case Number: CS(COMM) 444/2022 & I.A. 11940/2023
Decided On: 02 November 2023

The present suit has been filed by the plaintiff for permanent injunction and damages against the defendant.



The Plaintiff also seeks a declaration of its marks as well-known marks. The Hon'ble Delhi High Court in order dated 15th September 2022 had proceeded with the ex-parte decision after there was no appearance on behalf of the Defendant. The Hon'ble Court had granted an ad-interim injunction restraining the defendant from using the “NEW BALANCE” and “NB” name and mark in respect of its immigration services. In respect of prayer regarding well-known declaration, the Hon'ble Court had directed evidence to be filed by the plaintiff. The plaintiff has placed sufficient documentary evidence on record in support of prayer for declaration as a well-known mark. After going through the evidence filed by the plaintiff, the Hon'ble Court noted that the mark “NEW BALANCE” is a unique combination of two distinctive words which have no connection, allusion or description of the products of the services offered by the plaintiff. The logo is also quite distinctive and has been repeatedly enforced by the Court orders against misuse.

PANKAJ RAVJIBHAI PATEL TRADING AS RAKESH PHARMACEUTICALS (Petitioner) vs SSS PHARMACHEM PVT. LTD. (Respondent)

Case Number: FAO (COMM) 98/2023 CM APPL 20261/2023 (Stay), CM APPL. 20262/2023
Decided On: 02 November 2023

The present appeal impugns the order dated 21 February 2023 passed by the District Judge who has assigned and recorded in that order for reasons, vacated the ex parte injunction which had been granted in favour of the plaintiff. This case occurred as a difference from a prior decision in the '*Vishal Pipes Limited vs Bhavya Pipe Industry*', which directed suits valued below Rs. 3 lakhs to be initially listed before the District Judge (Commercial) for an evaluation of their valuation's correctness. The recent judgment questioned this approach, contending that the evaluation of undervalued IPR suits can be handled by the District Court itself, without involving commercial courts for valuation purposes. The division bench opined that the courts where these proceedings are now pending can evaluate the defined value and the value authorized to reliefs requested in IPR actions under Rs. 3 lakhs. The Vishal Pipes' case directive aimed to require a valuation of Rs. 3 lakhs and above for all IPR cases, was particularly disagreed by the court, which emphasized how it could alter the jurisdictional distribution between commercial and non-commercial courts as required by statute. The notion that all IPR claims below a certain value are intrinsically undervalued was rejected by this ruling. The analysis of the Hon'ble Court sets a standard for IPR matters going forward and emphasizes the significance of case-specific evaluations in the valuation and adjudication procedure.

**PERNOD RICARD INDIA PRIVATE LIMITED
(Plaintiff) Vs A B SUGARS LIMITED & ANR.
(Defendants)**

Case Number: CS(COMM) 371/2019
Decided On: 31 October 2023

The present suit was filed by the plaintiff against the defendant for seeking injunction against infringement and passing off of its registered mark “ROYAL STAG” and “ROYAL STAG BARREL SELECT”. The plaintiff asserted that it has gained remarkable goodwill in the Indian liquor market. The Stag device has become the source identifiers of the plaintiff, and it is perpetually associated in the mind of consuming public. On the other hand, the defendant has argued that “Stag” is publicly juris in the liquor industry therefore plaintiff cannot claim monopoly over the word “Stag”. The defendant has also cited some of the whiskey brands around the world like Dalmore and Glenfiddich which deliberately use the word “Stag” and Stag devices on their labels. The Hon'ble Delhi High Court observed that the mark “INDIAN STAG” is deceptively similar to the mark “ROYAL STAG”. The use of the word “STAG”, being an essential feature in the impugned mark, represents the “INDIAN STAG” mark phonetically and structurally similar to the mark “ROYAL STAG”. The Hon'ble Court further observed that the disclaimer in respect of "ROYAL" part of plaintiff's mark, while granting registration to plaintiff's “ROYAL STAG” mark cannot, therefore, make any difference. The common part in the rival marks is “STAG”, which has not been disclaimed by the plaintiff. Therefore, there is no restriction on the plaintiff claiming exclusivity in respect of the STAG part of its mark. The Hon'ble Delhi High Court has confirmed the ad interim order, which restrained defendants from using, manufacturing, bottling, selling, exporting, and offering for sale the products of liquor, whisky or any related alcoholic beverages under the trademark 'Indian Stag' and/or its 'Stag' device or any other trade mark/device that may be deceptively similar to the plaintiff's trade mark 'Royal Stag' and/or 'Stag' device.



**FULLSTACK EDUCATION PVT LTD (Appellant)
vs INSTITUT EUROPEEN D ADMINISTRATION
DES AFFAIRES (INSEAD) ASSOCIATION
& ANR. (Respondents)**

Case Number: LPA 536/2023 & CM APPLs. 29901/2023
(Stay), 29903/2023 (Addl. Facts)
Decided On: 30 October 2023

The present appeal was filed by the appellant to



assail the judgement dated 17 May 2023 in terms of which learned Single Judge has proceeded to allow the petition filed by the respondent no. 1 referable to Section 57 of the TradeMarks Act, 1999. The appellant and the respondents ran a business school under the name 'INSEAD' (Institute European D Administration Des Affaires Association) and 'INSAID' (International School of AI and Data Science) respectively. The Hon'ble Delhi High Court has noted that Section 57 of the Act empowers a Court to cancel or vary registration obtained and to rectify the Register. That power clearly stands imbued with characteristics of finality since the fallout of a direction under Section 57 of the Act would necessarily be a registered trademark being struck-off the Register. A direction under Section 57 of the Act would in any case not be justified merely on the formation of a prima facie opinion. An opinion rendered prima facie is undoubtedly one which is representative of the view formed on a preliminary examination of the lis and thus tentative and irresolute. In any case, such a direction cannot rest on first impressions and a preliminary opinion that may be arrived at. Hence, the Hon'ble High Court allowed the appeal and the judgment dated 17 May 2023 is hereby set aside and remitted the matter to the learned Single Judge for considering the petition afresh and decide the same expeditiously.



COPYRIGHT CASE:

**L. PRAKASAM REDDY AND OTHERS. (Appellants)
vs PARAS MEDICAL PUBLISHERS AND
ANOTHER. (Respondents)**

Case Number: CIVIL MISCELLANEOUS APPEAL
No.318 of 2023
Decided On: 09 November 2023

This appeal was filed by the defendants against the order dated 29.03.2023 passed by the Commercial Court by which application for temporary injunction filed by the plaintiffs has been allowed and the appellants have been restrained from printing, publishing or distributing the eighth edition of the textbook, namely Fundamentals of Medical Physiology. While the Commercial Court held that the respondent was able to make out a prima facie case and thus passed the impugned interim injunction order. The Hon'ble Telangana High Court held that the Commercial Court failed to consider the “irreparable injury” factor. Hence, the Hon'ble High Court set aside the impugned order and directed the respondents with regard to printing, marketing, publishing, distributing or reprinting any previous editions, including eighth edition of the medical book, namely Fundamentals of Medical Physiology to produce the same periodically before the Commercial Court.



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