

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

No.....28096-I.....DHC/Orgl./IPD

Dated...13/11/24.....

From:

The Registrar General  
Delhi High Court  
New Delhi.

To:

**COUNSEL FOR THE PLAINTIFF**

MR. HEMANT DASWANI, ADV.  
MS. PRANJAL, ADV.  
DASWANI & DASWANI  
ADVOCATES FOR PLAINTIFF  
BASEMENT, R-167  
GREATER KAILASH - 1  
NEW DELHI - 110048  
EMAIL: delbi@daswanianddaswani.com  
PHONE (01 1 ) 4163 221 1  
MOBILE: 9810556744

**CS(COMM) 916/2024**

MANKIND PHARMA LIMITED

.....PLAINTIFF(S)

Vs

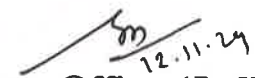
MANKIND AGRI SEEDS

...DEFENDANT(S)

Sir,

I am directed to forward herewith for information and necessary compliance a copy of order dated **11.11.2024** passed by **HON'BLE MR. JUSTICE AMIT BANSAL** of this Court.

Yours faithfully,

  
12.11.24  
**Admn. Officer (Judl.) (IPD)**  
**for Registrar General**  
**RR**

**Encl. : 1) Copy of the order dt: 11.11.2024.**



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+ **CS(COMM) 916/2024**

**MANKIND PHARMA LIMITED** .....Plaintiff

Through: Mr Amil Sibal, Senior Advocate with  
Mr Hemant Daswani, Ms Saumya  
Bajpai, Ms Pranjal, Mr Rishabh  
Sharma, Mr Ankur Vyas and Mr  
Kunal Prakash, Advocates.

versus

**MANKIND AGRI SEEDS** .....Defendant

Through: None.

**CORAM:**  
**HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER**

% **11.11.2024**

**CS(COMM) 916/2024 and I.A. 42756/2024 (O-XXIX Rules 1 and 2 of CPC)**

1. An affidavit of service has been filed on behalf of the plaintiff wherein it has been affirmed that a complete copy of the plaint paper-book has been sent to the defendant through speed post as well as courier and the speed post notice has been delivered to the defendant on 6<sup>th</sup> November, 2024.
2. Despite service, none appears on behalf of the defendant.
3. The present suit has been filed seeking relief of permanent injunction for infringement of trade marks along with passing off and other ancillary reliefs.

4. The case set up by the plaintiff is that the plaintiff company was incorporated in the year 1991 and is involved in manufacturing and/or marketing of medicinal, pharmaceutical and veterinary preparations. The trade mark 'MANKIND' was adopted by the plaintiff in 1986 and the plaintiff applied for registration in Class 5 in the year 1995 claiming use since 1986.

5. It is contended that the plaintiff is the registered proprietor of the mark 'MANKIND' in all 45 classes, which are detailed at pages 42 and 43 of the plaintiff's documents. The plaintiff has filed along with the plaint, copies of the legal certificates for the mark 'MANKIND'. The aforesaid marks are valid and subsisting. The plaintiff company has also many subsidiaries and/or divisions with MANKIND as a part of their trade name. As on date, the plaintiff's group has 475 trade marks registrations with the word 'MANKIND'.

6. The plaintiff's mark 'MANKIND' has been declared to be a well-known trade mark by the Registrar of Trade Marks in terms of Section 2(1)(zg) of the Trade Marks Act, 1999.

7. On 6<sup>th</sup> April, 2022, under the plaintiff's group, a subsidiary was incorporated under the name of 'MANKIND AGRI-TECH PRIVATE LIMITED' to operate in the field of agricultural products.

8. Mr Amit Sibal, senior counsel appearing on behalf of the plaintiff has drawn the attention of the Court to the invoices of the plaintiff's subsidiary company *i.e.*, MANKIND AGRI-TECH PRIVATE LIMITED to show that the said company is dealing with agricultural products including oil seeds (*Page 1563 of the plaintiff's document*).

9. It is the case of the plaintiff that on 18<sup>th</sup> September, 2024, the plaintiff

came across the name of the defendant, 'MANKIND AGRI SEEDS' dealing in agricultural business as well as retail/wholesale and manufacturing and selling of agricultural goods including but not limited to oil seeds.

10. Mr Sibal has also drawn the attention of the Court to the details of the defendant available on the GST Portal (*Page 1567 of the plaintiff's document*) to demonstrate that the defendant also uses the trade name 'MANKIND AGRI SEEDS'.

11. It is stated that by the end of financial year 2021-22, the plaintiff company had a turnover of Rs.5,529 Crores making it among the top 5 pharmaceutical companies of India. It is the case of the plaintiff that the defendant is using the trade mark 'MANKIND' so as to ride upon the goodwill and reputation of the plaintiff company.

12. Based on the averments made in the plaint and the submission made on behalf of the plaintiff, the plaintiff has established that it is the registered proprietor of the trade mark 'MANKIND'.

13. A *prima facie* case of infringement and passing off is made out on behalf of the plaintiff. The usage of the trade name 'MANKIND' by the defendant is likely to create confusion in the market. Balance of convenience is in favour of the plaintiff and against the defendants. Irreparable injury would be caused to the plaintiff if the defendant continues to use the impugned trade name.

14. Consequently, till the next date of hearing, the defendant, either by themselves or through their dealers, distributors, stockiest, agents, associates, directors, employees, servants, and/or assigns are restrained from trading and/or selling and/or marketing and/or dealing and/or advertising including advertising and selling on internet and/or rendering services for

any kind of goods/services including but not limited to agricultural goods namely oilseeds and oleaginous fruits, ground-nuts etc. under the trade name/trade mark 'MANKIND AGRI SEEDS' and/or any other trade name/trade mark with the word element 'MANKIND'.

15. List before the Joint Registrar on 9<sup>th</sup> January, 2025, the date already fixed for completion of service and pleadings.

16. List before the Court on 6<sup>th</sup> March, 2025.

**I.A. 42757/2024 (O-XXVI R-9 of CPC)**

17. The present application has been filed under Order XXVI Rule 9 of the CPC seeking appointment of Local Commissioner to visit the premises of the defendant, make an inventory of all the goods having the impugned trade name and effect seizure of the same.

18. In view of what is stated above, the plaintiff has made out a case for appointment of a Local Commissioner.

19. Accordingly, Mr Uday Bharat Bali, Advocate (Mobile No. +91-8800164941) is appointed as Local Commissioner to visit the premises of the defendant "Mankind Agri Seeds" situated in:

*SR No 49, At P.O. Lalpur, Savgad, Himatnagar,  
Sabarkantha, Gujarat - 383 220.*

20. The following directions are passed in this regard:

- i. The Local Commissioner, along with a representative of the plaintiff and its counsel, shall be permitted to enter upon the premises of the defendant mentioned above or any other location/premises that may be identified during the course of commission, in order to conduct the search and seizure.
- ii. The Local Commissioner shall make an inventory of all the

infringing products including but not limited to label/packaging material bearing the name 'MANKIND' (hereinafter referred to as 'infringing material').

- iii. The Local Commissioner shall conduct a search at the defendant's premises and seize the infringing goods, including any packaging/promotional material reflecting infringement.
- iv. After seizing infringing material, the same shall be inventoried, sealed and signed by the Local Commissioner, in the presence of the parties, and released on *superdari* to the defendants on their undertaking to produce the same as and when further directions are issued in this regard.
- v. The Local Commissioner shall also be permitted to make copies of the books of accounts including ledgers, cash registers, stock registers, invoices, books, etc. insofar as they pertain to the infringing material.
- vi. The defendant and their representatives are directed to provide full assistance to the Local Commissioner for executing the present commission.
- vii. In case, the aforesaid premises of the defendant or any part thereof is found locked, the Local Commissioner is permitted to break open the locks and doors for execution of the commission.
- viii. To ensure an unhindered and effective resolution of this order, the SHO of the local police station having jurisdiction of the aforesaid premises and the DCP concerned are directed to render the necessary protection and assistance to the local commissioner, if and when sought.

ix. The Local Commissioner shall have the liberty to take photographs and/or videos of the stock seized and to take a sample of the infringing products to be filed along with the Report.

21. The Local Commissioner shall file its Reports within two (2) weeks of executing the commission, along with photographs taken and photocopies of the books of account and stock and the inventory procured pursuant thereto.

22. The fees of the Local Commissioner, to be borne by the plaintiff, is fixed at Rs.1,50,000/-. The plaintiff shall also bear expenses for travel and lodging of the Local Commissioner and other miscellaneous out-of-pocket expenses for the execution of the commission.

23. The application stands disposed of in the above terms.

24. The order passed today shall not be uploaded for a period of two (2) weeks from today.

25. *Dasti.*

**NOVEMBER 11, 2024**

kd



**'AMIT BANSAL, J**