

F Hoffmann-La Roche Ltd & Anr vs.dr. Reddys Laboratories Ltd & Anr

F Hoffmann-La Roche Ltd & Anr vs.dr. Reddys Laboratories Ltd & Anr

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Court : Delhi

Decided On : Feb-02-2017

Appellant : F Hoffmann-La Roche Ltd & Anr

Respondent : Dr. Reddys Laboratories Ltd & Anr

Advocate for Pet/Ap. : Mr. Pravin Anand, Mr. Shrawan Chopra, Mr. N. Mahabir, Ms. Prachi Agarwal, Mr. Pundreek Dwivedi, Mr. Anand Grover, Mr. Gaurav Barathi, Mr. Vikramjeet, Ms. Priyam Lizmary Cherian, Ms. Neeti Aggarwal, Ms. Anusuya Nigam, Mr. Tushar Bhatnagar

Judgement :

* % + + IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

2. d February, 2017. CS(COMM) 29/2016 F.HOFFMANN-LA-ROCHE LTD. & ANR. Plaintiffs Through: Mr. Pravin Anand, Mr. Shrawan Chopra, Mr. N. Mahabir, Ms. Prachi Agarwal & Mr. Pundreek Dwivedi, Advs. Versus NATCO PHARMA LIMITED Defendant Through: Mr. Anand Grover, Sr. Adv. with Mr. Gaurav Barathi, Mr. Vikramjeet, Ms. Priyam Lizmary Cherian & Ms. Neeti Aggarwal, Advs. CS(COMM) 946/2016 AND F HOFFMANN-LA ROCHE LTD & ANR Plaintiffs Through: Mr. Pravin Anand, Mr. Shrawan Chopra, Mr. N. Mahabir, Ms. Prachi Agarwal & Mr. Pundreek Dwivedi, Advs. Versus DR. REDDY'S LABORATORIES LTD & ANR Defendants Through: Ms. Anusuya Nigam & Mr. Tushar Bhatnagar, Advs. for D-1. Mr. Anand Grover, Sr. Adv. with Mr. Gaurav Barathi, Mr. Vikramjeet, Ms. Priyam Lizmary Cherian & Ms. Neeti

Aggarwal, Advs. for D-2. CS(COMM) Nos.29/2016 & 946/2016 Page 1 of 17
CORAM: HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW O.A. No.13/2017 in
CS(COMM) No.29/2016 & O.A. No.14/2017 in CS(COMM) No.946/2016 1. The
Chamber Appeal in both the suits has been preferred by Natco Pharma Ltd.
(Natco) which is the sole defendant in CS(COMM) No.29/2016 and defendant
No.2 in CS(COMM) No.946/2016 and are directed against the common order
dated 30th January, 2017 of the Joint Registrar, allowing IA No.854/2017 and IA
No.849/2017 of the plaintiffs, both under Order VII Rule 14 of the Code of Civil
Procedure, 1908 (CPC) in the two suits, for filing additional documents.

2. The senior counsel for Natco and the counsel for plaintiff F. Hoffmann-La Roche
Ltd. (Hoffmann) in both suits, have been heard at length.

3. Hoffmann filed CS(OS) No.2465/2009 (new number CS(COMM) No.29/2016) to
restrain Natco from infringing the drug patent of Hoffmann. Hoffmann thereafter
filed CS(OS) No.81/2010 (new number CS(COMM) No.946/2016) to restrain Dr.
Reddy's Laboratories Ltd. (Dr. Reddy) and Natco, again from infringing the same
patent. The need for impleading Natco in the second suit arose because Natco
was supplying Dr. Reddy the active pharmaceutical ingredient.

4. Natco as well as Dr. Reddy filed counterclaim in the suits, impugning the patent
in favour of Hoffmann.

5. Separate issues were framed in the two suits and the counterclaims therein.
Subsequently, the suits were consolidated and Hoffmann CS(COMM)
Nos.29/2016 & 946/2016 Page 2 of 17 commenced leading its evidence. The first
witness of Hoffmann has been examined and cross-examined by Dr. Reddy as
well as Natco. Hoffmann thereafter filed affidavit by way of examination-in-chief of
Dr. Alexander James Bridges, who the senior counsel for Natco fairly agrees, is a
renowned expert in the field (and is not an employee or agent of Hoffmann).
Hoffmann, along with the said affidavit, filed about 14 documents and which had
not been filed by Hoffmann at any earlier stage.

6. IA No.10698/2016 and IA No.10685/2016 were filed by Natco in the respective
suits averring that a portion of the deposition of Dr. Bridges in the affidavit by way

of examination-in-chief was beyond the pleadings of Hoffmann and seeking striking off of the said paragraphs of the affidavit by way of examination-in-chief. The said applications are still pending consideration and are listed for hearing on 15th May, 2017.

7. Since there was no stay of recording of evidence during the pendency of the aforesaid applications, the recording of evidence of Dr. Bridges commenced and his cross-examination by Natco stands concluded and he is now under cross-examination by Dr. Reddy.

8. At this stage, Hoffmann filed IA No.854/2017 and IA No.849/2017 supra seeking permission of the Court for taking on record 10 out of the aforesaid 14 documents filed for the first time along with the affidavit by way of examination-in-chief of Dr. Bridges and which applications have been allowed by the learned Joint Registrar vide the order impugned in these chamber appeals.

9. The principal contention of the senior counsel for Natco while impugning the order of the Joint Registrar is that the documents aforesaid are CS(COMM) Nos.29/2016 & 946/2016 Page 3 of 17 in support of the part of the deposition of Dr. Bridges which is beyond pleadings of Hoffmann and the Joint Registrar, by allowing the applications of Hoffmann to take the said documents on record, has committed impropriety of procedure. It is contended by the senior counsel for Natco that the learned Joint Registrar has thereby pre-empted the decision on the applications aforesaid of Natco and / or made them infructuous. It is also the contention of the senior counsel for Natco that the said fact was brought to the attention of the Joint Registrar, who during the hearing indeed enquired from the counsel for Hoffmann as to how the applications of Hoffmann could be decided first, but in the order dictated later in the afternoon, has allowed the applications of Hoffmann.

10. The counsel for the Hoffmann has not controverted the impropriety to the aforesaid extent. He however states that it was his submission before the Joint Registrar that since Dr. Bridges is in India for recording of his cross-examination by Dr. Reddy, Hoffmanns applications be decided subject to the outcome of the applications filed by the Natco. He today also states that the order impugned in

these chamber appeals can be subject to the outcome of the applications of Natco.

11. The counsel for Dr. Reddy at this stage informs that Dr. Reddys stand before the Joint Registrar on 30th January, 2017 was that they are not objecting to the said 10 documents subject to the additional documents if any filed by them along with the deposition of their expert being also taken on record and to which the counsel for Hoffmann had given no objection. The counsel for Hoffmann confirms.

12. In the aforesaid state of affairs and to put the controversy at rest, with CS(COMM) Nos.29/2016 & 946/2016 Page 4 of 17 the consent of the counsels, IA No.10698/2016 and IA No.10685/2016 aforesaid of Natco have been taken up for consideration today so that there is no impediment to the cross-examination scheduled also for today of Dr. Bridges.

13. The contention of the senior counsel for Natco is that Natco in its counter-claim has challenged the patent in favour of Hoffmann on the ground as provided inter alia in Section 64(1)(f) of the Patents Act, 1970 i.e. the invention claimed in any claim of the complete specification being obvious and not involving any inventive step. The senior counsel for Natco has taken me through the pleadings in the counterclaim of Natco and the written statement of Hoffmann thereto. Hoffmann in its written statement to the counterclaim has pleaded as to why the invention is not obvious. Dr. Bridges in his affidavit by way of examination-in-chief, in the paragraphs to which objection is taken, has, besides the reasons given in the written statement to the counterclaim of Natco, also given the reason of polarity and toxicity. Dr. Bridges has deposed that the invention is not obvious because polarity and toxicity would have been taken into consideration by the person skilled in the art and were not taken into consideration. Hoffmann in its written statement to the counterclaim of Natco, the counsel for Hoffmann fairly admits, did not plead the reason of polarity and toxicity. Natco in its replication thereto thus had no occasion to meet the same.

14. The senior counsel for Natco contends that Natco, while cross- examining Dr. Bridges, has not cross-examined him on the said aspects because its applications aforesaid were pending and because the admitted principle of law is that no

evidence beyond pleadings can be seen; that to CS(COMM) Nos.29/2016 & 946/2016 Page 5 of 17 allow Dr. Bridges to now give the reasons of polarity and toxicity as a defence to the challenge by Natco to the patent on the ground of the same being obvious, would be beyond the pleadings and no finding on the basis of any evidence led beyond the pleadings can be returned.

15. Per contra, it is the contention of the counsel for Hoffmann i) that Dr. Bridges is an independent expert and though Hoffmann in the written statement to the counterclaim had given reasons to meet the challenge to the patent but Dr. Bridges as an independent expert is always entitled to, on the basis of his own examination, research, experience and expertise, add reasons thereto; ii) that Natco in its cross-examination of Dr. Bridges has already cross-examined him on the aspect of toxicity and polarity and for this reason also is now estopped from objecting thereto; iii) the learned Joint Registrar, in the impugned order has still granted opportunity to Natco to cross examine Dr. Bridges further; iv) that Natco is still to lead its own evidence and can in its evidence meet the deposition to the aforesaid effect of Dr. Bridges.

16. The senior counsel for Natco in rejoinder has controverted that Natco has cross-examined Dr. Bridges on the part of the deposition objected to in the applications which were pending consideration and rather refers to the question put to Dr. Bridges and in answer where to he has admitted that there is no reference to toxicity in the written statement of Hoffmann to the counterclaim of Natco. It is further contended that Section 115 of the Patents Act provides for an independent expert to be appointed by the Court and Dr. Bridges or for that matter any other expert examined by a party to a litigation cannot be labelled as an independent expert and is necessarily a CS(COMM) Nos.29/2016 & 946/2016 Page 6 of 17 witness on behalf of that party to the litigation.

17. On enquiry, it is informed that the subject patent has expired and the claim now in the suits is for damages only.

18. The counsels are also ad-idem that in the Patents Act, there is no presumption of validity of the patent, though the onus to prove a ground for revocation thereof would be on the party challenging the grant of patent. I may notice that vide

Section 104-A, in a suit for infringement of a process patent, the Court may direct the defendant to prove that the process used by him is different i.e. put the burden of proof on the defendant, if it is not in dispute that the resultant product is identical. Reference can be made to judgment dated 9th December, 2011 of the High Court of Karnataka in OS No.1 of 2004 titled National Remedies Pvt. Ltd. Vs. Indian Herbs Research & Supply Co. Ltd.

19. On enquiry, whether any specific issue qua the counterclaim, crystallising the ground on which Natco has sought revocation of the patent, has been framed, the counsels inform that only a general issue i.e. as to whether there is any merit in the challenge to the patent, has been framed.

20. I have further enquired as to why Hoffmann, which is defending the challenge to the patent, has led evidence first on the validity of the patent, before even Natco has led its evidence on the same.

21. The counsel for Hoffmann states that since Dr. Bridges was to be examined by Hoffmann as a witness to prove its claim in the suit of infringement on the part of Natco and Dr. Reddy, and since it is difficult and expensive to procure the presence of such an eminent expert repeatedly, a composite affidavit by way of examination-in-chief of Dr. Bridges, not only CS(COMM) Nos.29/2016 & 946/2016 Page 7 of 17 on the aspect of infringement but also as a defence to the validity of the patent, has been filed and he has been tendered as witness on both aspects.

22. The senior counsel for Natco points out that Dr. Bridgess affidavit is only on the aspect of validity of the patent and not on the aspect of infringement.

23. The counsel for Hoffmann agrees.

24. Rather, the senior counsel for Natco states that the defence to the claim for infringement also is the invalidity of the patent.

25. I am unable to agree with the contention of the counsel for Hoffmann that an expert, even if not in employment of the party litigant, can depose beyond the pleadings of the party litigant presenting him as a witness or even if so deposes, his evidence beyond pleadings can be considered.

26. Such an expert remains a witness of the party litigant examining him and whom the opposite party litigant has a right to cross-examine. Merely because he is an expert, does not change the adversarial nature of the procedure or make his deposition inquisitorial. The party litigant examines such expert only because his expert opinion, even if unbiased, supports that party litigant and because Section 45 of the Evidence Act, 1872, when the Court has to form an opinion upon a point inter alia of science, makes the opinion on that point of persons skilled in such science, a relevant fact. I am yet to come across a party litigant examining an expert whose opinion is against the claim of that party before the Court. It was also observed by the Supreme Court in *Gulzar Ali Vs. State of Himachal Pradesh* (1998) 2 SCC192 Had the expert opinion of Dr. Bridges, after carrying out tests, analysis, study, been that the patent registration of Hoffmann is invalid or is obvious CS(COMM) Nos.29/2016 & 946/2016 Page 8 of 17 or lacks inventive steps, I doubt Hoffmann would have presented him as its witness. It is a different matter that in cross-examination dent is caused to the testimony in favour of party litigant examining the said expert.

27. The adjudication which the Court in such suits and counterclaims therein is required to make inter alia is, whether Natco is not liable for infringement because the patent of which Hoffmann claims infringement is not an invention within the meaning of Section 3 of the Patents Act, being obvious and not involving an inventive step having regard to what was publicly known. Needless to state that adjudication of such a question in a suit proceeding has to be by following the procedure prescribed in the CPC. Under the CPC, the said question would arise for adjudication only when has a basis / foundation in the pleading in the suit. Order VI Rule 2 of CPC requires pleadings i.e. plaints and written statement to contain material facts on which a party pleading relies for his claim or defence. Order VI Rule 4 of CPC provides that in cases in which particulars are necessary, shall be stated in the pleading. Order VII Rule 1 of CPC requires a plaint (as a counter- claim is) to contain the facts constituting the cause of action. Thus, a party litigant defending a claim for infringement of patent on the ground of the patent being liable to revoked on one of the grounds under Section 64 of the Act would be required to plead particulars of that ground and which, in the case of ground under Section 64(1)(f) being invoked would be reasons why the invention

got registered as a patent is not an invention within the meaning of Section 2(j) of the Patents Act (i.e. a new product or a process involving an inventive step capable of industrial application), why it is not an inventive step within the meaning of Section 2(ja) of Patents Act (i.e. why it does not involve a technical advance as compared to existing knowledge and CS(COMM) Nos.29/2016 & 946/2016 Page 9 of 17 is not obvious to a person skilled in the art). Merely pleading that it is obvious and does not involve inventive step would not suffice.

28. Similarly, a written statement to such counterclaim would require the patentee to plead why the invention got registered as patent is not or would not be obvious to the person skilled in the art and as to why it is inventive. Merely pleading that it is not obvious and / or it entails an inventive step would not constitute a defence.

29. CPC, enacted more than a century ago, though provides form of pleadings and expressly requires particulars to be given of the pleas of misrepresentation, fraud, breach of trust, wilful default, undue influence (Order VI Rule 4 of CPC) but such forms are not found to deal with a pleading for revocation of patent. Perhaps such suits were not even envisioned then. However, Order VI Rule 4 CPC also contains a general provision as noticed above and pleading of particulars is found to be necessary in such suits. Without the plaintiff in a suit in which counter-claim for revocation of patent has been preferred knowing from the counter-claim the grounds on which revocation of the patent is sought and as in this case, why the invention patented is claimed to be obvious and lacking in inventive step, the plaintiff cannot effectively meet the said challenge. Similarly, without such plaintiff in the written statement to the counter-claim for revocation disclosing and pleading why the grounds for revocation do not exist and as in this case, why the invention was / is not obvious and why the patent is indeed an inventive step, the counter-claimant cannot lead evidence in support of the claim for revocation.

30. I have in Budh Singh Vs. Raghubir Singh MANU/DE/3871/2015, in CS(COMM) Nos.29/2016 & 946/2016 Page 10 of 17 the context of a challenge to a document claimed to be the validly executed last Will of the deceased, held that though the onus to prove the Will may be on the propounder thereof but a challenger to the Will is required to, in the pleading, specifically plead the grounds on which a

challenge is sought to be made to the Will so as to let the propounder of the Will know the grounds on which the Will is contested, so as to be in a position to lead evidence to dispel such grounds. A challenger to the Will is not allowed to, without taking any pleading or any specific grounds of challenge, spring surprises and at the stage of arguments contend that this has not been proved or that has not been proved.

31. The same principles would apply, in my view, to a suit entailing a claim for revocation of patent. I find at least one coordinate bench of this Court to have in *Novartis AG Vs. Cipla Ltd.* (2015) 216 DLT689 held it to be settled law that the challenge to the patent must be specifically pleaded and the defendant must deliver the particulars of objection on every ground on which its validity is challenged and to include such particulars which will clearly define every issue.

32. Not only are the pleadings to contain such particulars but in my opinion, in such a suit, framing of a general issue whether the patent is liable to be revoked? is as good as not framing an issue and allowing trial to proceed without framing of issues. CPC has provided for issues to be framed in a civil suit and framing of issues is not without purpose. Without framing of issues, neither would the parties to the litigation know what they are required to prove or disprove nor would the Court at the time of decision know what is for adjudication and on what to return findings. It would lead CS(COMM) Nos.29/2016 & 946/2016 Page 11 of 17 to an unguided trial which may even result in repeated trials with the losing party, wiser in retrospect, contending that the real controversy has not been adjudicated. Supreme Court, in *Kalyan Singh Chouhan Vs. C.P. Joshi* (2011) 11 SCC786 held that the object of framing issues is to ascertain/shorten the area of dispute and pinpoint the points required to be determined by the Court, so that no party at the trial is taken by surprise. It was further held that it is the issues framed and not the pleadings that guide the parties in the matter of adducing evidence. I have in *Kawal Sachdeva Vs. Madhu Bala Rana* 2013 SCC OnLine Del 1479 held (i) that the Court is required to apply its mind and understand the facts before framing of issues and will not be justified in adopting a hands off policy at the stage of framing of issues; and, (ii) that Order XIV of CPC provides for an issue to be framed only on material proposition of fact or law affirmed by one party and denied

by other party and not on whatsoever pleas are contained in the pleadings. It is on account of these principles that I say that framing a general issue as whether the patent is liable to be revoked serves no purpose as it permits evidence to be led on all the grounds aforesaid under Section 64 and does not cull out the controversy on account of which the revocation of the patent is sought. If revocation is sought on the ground of the invention patented being obvious, the issue should crystallise, whether it is obvious for the reasons pleaded. Once the issues are so framed, it would automatically exclude evidence on the grounds not pleaded or on which no issue has been sought.

33. I find this Court to have framed Rules under Section 110 of the Trade and Merchandise Marks Act, 1958 and the Copyright Rules, 1959 in exercise of powers under Section 73 of the Copyright Act, 1957. Though Section 158 of the Patents Act also empowers this Court to make rules as to the conduct CS(COMM) Nos.29/2016 & 946/2016 Page 12 of 17 and procedure in respect of all proceedings before this Court under the Act but unfortunately no rules are found to have been drafted. Perhaps now that the issues such as the present have arisen, time has arrived for this Court to undertake an exercise of framing of rules and which may provide for the particulars to be contained in the pleadings in the proceedings under the Act. A copy of this judgment be forwarded to Honble the Chief Justice to, if so deems appropriate, refer the matter to the Rules Committee of this Court (constituted in exercise of powers under Section 123 of the CPC) for undertaking the said exercise.

34. Natco and Hoffmann have also understood the law to be such and have in their counter-claim and written statement thereto pleaded in detail on the said aspect. However Hoffmann, in the written statement to the counter-claim of Natco, while listing various reasons for the invention patented by it to be not obvious and why it entails an inventive step, has not given the reason of polarity and toxicity. As per the arguments made by counsel for Hoffmann today, Hoffmann itself, at the time of filing the written statement to the counter-claim, was not aware that the invention patented by it is not obvious for the reason of polarity and toxicity and has learnt so now on engaging and obtaining the opinion of the expert Dr. Bridges.

35. The Court thus for adjudicating whether the invention got registered as a patent by Hoffmann is liable to be revoked or not, would be required to inter alia adjudicate whether it is obvious or does not involve any inventive step having regard to what was publicly known or published before that. The said adjudication, needless to state, requires this Court to form an opinion upon a point of science. I may in this regard notice that at CS(COMM) Nos.29/2016 & 946/2016 Page 13 of 17 the time of registration of patent also the Controller General of Patents is required to make a similar inquiry as this Court is required to make and for this purpose vide Section 12 of the Patents Act requires the application to be referred to an examiner for making a report. Only if the Court forms such an opinion, can it issue an order revoking a patent. Hence the opinion of an expert skilled in science becomes a relevant fact and of which evidence can be adduced.

36. Seen in this light, the opinion of the expert is only a proof of the pleading and no different. Just like only those facts which are pleaded can be proved in evidence, similarly expert opinion can be given only of a scientific fact pleaded. Without the scientific fact having been pleaded and if controverted, having issue framed thereon, no evidence thereof in the form of expert opinion in proof thereof can be adduced.

37. The affidavit by way of examination-in-chief of Dr. Bridges is indeed his expert opinion in writing and a document and not a deposition and should have been filed at the stage of filing documents.

38. The Courts, till now are more attuned to examination of handwriting experts and whose reports form a part of the Court record as document and who, in their examination-in-chief, merely prove the said report. But here, Dr. Bridges, instead of giving his expert opinion in writing in the form of a report, has incorporated the same in his affidavit by way of examination-in- chief and which has resulted in the report, though a document, coming on the record of the Court without any permission therefor having been taken. Since the said opinion gives additional grounds for Hoffmann to defend the claim of Natco for revocation and which it transpires from aforesaid, CS(COMM) Nos.29/2016 & 946/2016 Page 14 of 17 Hoffmann also did not know at the stage of pleadings and documents, the

objection of Natco cannot be said to be misplaced. Opinion of an expert in matters such as patent of pharmaceutical substance cannot be said to be at par with the opinion of a handwriting expert. While denial alone of the writing to be of the person of whom it is claimed to be is sufficient without requiring pleading of differences and the opinion of the expert is only in support of the denial or affirmation of the writing, the opinion of an expert in patent matters stands on a different footing, where the Court is called upon to rule on technical matters of whether the patent is indeed an invention. The Legislature also in Section 64 has crystallised the grounds on which revocation can be sought and the ingredients of the existence of the said grounds necessarily have to be pleaded and which ingredients would thus constitute a matter of opinion.

39. The counsel for Hoffmann also informed that getting opinions of eminent experts in such fields is not an easy task and entails delays and it is not always possible to procure such expert opinion in the form of reports at the stage of filing documents.

40. The said difficulties even if encountered cannot however change the procedure. As long as the deposition of the expert, even if without a report having been filed earlier, is within the confines of the pleadings, no difficulty will arise. However, if the expert transgresses the pleadings, certainly the opposite party would be entitled to object that part of the deposition of the expert.

41. The objection taken by Natco in IAs No.10698/2016 & 10685/2016 supra is thus found to be tenable and the portions of deposition of Dr. CS(COMM) Nos.29/2016 & 946/2016 Page 15 of 17 Bridges which are beyond the pleadings of Hoffmann would be liable to be struck down.

42. However the fact remains that the present controversy is a result of there being no clarity on procedure, partly owing to absence of Rules and owing to the erroneous framing of issues without crystallising the real controversy and owing to Dr. Bridges deposing as a witness on the validity of the patent on behalf of Hoffmann even before Natco, on whom the onus of the issue qua validity rests, leading its evidence. The counsels inform that not only are there no rules framed but there does not appear to be any judgment till now on the said aspect. For this

reason, I am inclined to not deprive Hoffmann of an opportunity to defend the patent in its favour on the grounds urged for the first time in the deposition of Dr. Bridges.

43. It is also well nigh possible that if Natco had led its evidence first, Hoffmann, with the report / deposition of Dr. Bridges in its hand, may have cross-examined the witnesses of Natco on the aspect of polarity and toxicity. The scope of cross-examination is certainly much larger. (See Section 138 of the Evidence Act) If the witnesses of Natco had deposed on the aspects of polarity and toxicity, then Hoffmann would have been entitled to counter with the opinion of Dr. Bridges. Hoffmann cannot be placed in a disadvantageous position owing to the error in the procedure which has occurred.

44. Rather, from the hearing it also transpires that the real issue in these proceedings is the claim of Natco for revocation of the patent and if Natco fails, therein it would axiomatically be liable for infringement. There was thus no reason for Hoffmann, though plaintiff in both the suits, to commence CS(COMM) Nos.29/2016 & 946/2016 Page 16 of 17 leading its evidence first.

45. For all the aforesaid reasons, IAs No.10698/2016 & 10685/2016 as well as OA No.13/2017 & OA No.14/2017 are dismissed. CS(COMM) No.29/2016 & CS(COMM) No.946/2016 46. The senior counsel for Natco, without prejudice to Natcos right to impugn the order aforesaid, states that instructions will be required to be obtained to cross-examine Dr. Bridges on the aspect of polarity and toxicity and it will not be possible to cross-examine Dr. Bridges as scheduled for today or even after the counsel for Dr. Reddy has concluded the cross-examination of Dr. Bridges.

47. This request of Natco is found to be reasonable and is allowed.

48. The counsel for Natco shall, on or before 15th March, 2017, inform the counsel for Hoffmann whether Natco requires to cross-examine Dr. Bridges further and if it is so, Hoffmann shall at its own cost produce Dr. Bridges for further cross-examination by Natco.

49. To be listed after the recording of evidence is completed. RAJIV SAHAI
ENDLAW, J.

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