



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Reserved on: May 15, 2025*

*Pronounced on: July 01, 2025*

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**CS(COMM) 881/2024**

**KABUSHIKI KAISHA TOYOTA JIDOSHOKKI ..... Plaintiff**

Through: Mr. C.M. Lall, Sr. Adv. with Mr.  
Pravin Anand, Ms. Archana  
Shanker, Mr. Sagar Arora, Ms.  
Annanya Mehan and Mr. Ashutosh  
Upadhyaya, Advs.

Versus

**LMW LIMITED**

**....Defendant**

Through: Mr. Gaurav Pachnanda, Sr. Adv. with  
Mr. Vineet Rohilla, Mr. Pankaj  
Soni, Mr. Debashish Banerjee, Mr.  
Ankush Verma, Mr. Rohit Rangi and  
Ms. Namrata Sinha, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE SAURABH BANERJEE**

**J U D G M E N T**

**I.A. 41600/2024 (for injunction)**

**Preface:**

1. *Vide* the present application under *Order XXXIX Rules 1* and 2 of the Code of Civil Procedure, 1908<sup>1</sup>, the plaintiff seeks an interim injunction against the defendant for restraining use of the impugned product Spinpact<sup>2</sup> or any other product infringing its Indian Patent bearing no.IN244759<sup>3</sup> titled as “FIBER BUNDLE CONCENTRATING

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<sup>1</sup> Hereinafter referred as ‘CPC’

<sup>2</sup> Hereinafter referred as ‘Spinpact’

<sup>3</sup> Hereinafter referred as ‘IN759’



*APPARATUS IN SPINNING MACHINE*” as also another Indian Patent bearing no.IN394883<sup>4</sup> titled as “*SUCTION DUCT FOR SPINNING MACHINE*”, amongst other ancillary reliefs.

2. At the very outset, Mr. Chander M. Lall, learned senior counsel for the plaintiff upon instructions from Mr. Pravin Anand, learned counsel for the plaintiff submitted that for adjudication of the present application, at this stage, the plaintiff will not be pressing for any relief(s) in relation to IN883 in light of the statement made by the defendant in its written statement, particularly *paragraph no.67* thereof, wherein the defendant has stated that it has stopped manufacture and supply of the product allegedly infringing IN883, and is now using an alternate technology.

3. Since all the submissions advanced by Mr. Lall are qua IN759, hence, this Court is proceeding to adjudicate upon the present application only with respect to IN759.

**Brief Factual Matrix:**

4. As per the plaintiff, Kabushiki Kaisha Toyota Jidoshokki, it is located in Japan, and was founded in the year 1926 under the name of Toyoda Automatic Loom Works Ltd. to manufacture and sell automated looms.

5. The plaintiff is engaged in the business of designing, manufacturing and sale of a diverse range of products including textile machinery, handling equipment, automobiles and their parts across numerous sectors around the globe with a workforce of more than 77,000 people and a financial strength of about 80.4 Billion yen.

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<sup>4</sup>Hereinafter referred as ‘IN883’



6. In India, the plaintiff is carrying on its business through its Indian subsidiary having its office at Bangalore. The plaintiff has several research and development centres and has been granted over 228 patents in India till date, two of which are IN759 and IN883, involved in the present proceedings. The plaintiff has also received numerous awards for its technological advancements.

7. The plaintiff applied for IN759 titled “*FIBER BUNDLE CONCENTRATING APPARATUS IN SPINNING MACHINE*” vide Conventional Application bearing no.629/CHE/2005 on 24.05.2005, with a priority date of 28.05.2004. The said IN759 was then published under Section 11A of the Patents Act, 1970<sup>5</sup> on 21.09.2007, whereafter, the First Examination Report<sup>6</sup> was issued on 22.01.2010. The said FER was responded by the plaintiff on 04.05.2010. The subject matter of the patent, as per the Abstract, is summarized as under:-

*“A fiber bundle concentrating apparatus 11 is located downstream of a pair of final feed rollers 13 of a draft machine 12 and includes a feed part, which includes bottom nip rollers 20a, and suction pipes 29 located upstream of the nip points of the feed part along the moving direction of fiber bundles F. Each suction pipe 29 has a guiding surface 29b, which includes suction holes 29a. Perforated belts 18 are each wound about one of guide members 19, the corresponding bottom nip roller 20a, and the corresponding suction pipe 29 in a state where the perforated belt 18 slides against guiding surfaces 19a, 29b. Each suction pipe 29 includes a curved surface 29c, which extends along the circumferential surfaces of the bottom nip rollers 20a. Each bottom nip roller 20a includes grooves 33 the depths d of which are greater than or equal to 0.04 mm. The grooves 33 extend in a direction intersecting the circumferential direction of*

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<sup>5</sup>Hereinafter referred as ‘*the Act*’

<sup>6</sup>Hereinafter referred as ‘*FER*’



*the bottom nip roller 20a corresponding to the width about which the corresponding perforated belt 18 is wound.”*

8. Pursuant thereto, IN759 was granted in favour of the plaintiff on 20.12.2010, with *eight* granted claims and *one* independent claim as follows;

*“1. A fiber bundle concentrating apparatus (11) in a spinning machine for concentrating fiber bundles (F) drafted by a draft part (12), the apparatus comprising:*

*a feed part, which is located downstream of a pair of final feed rollers (14, 15) of the draft part (12) and comprises a pair of nip rollers (16); a suction part (17), which has a guiding surface (29b) comprising a suction hole (29a) upstream of the nip point of the feed part along the moving direction of the fiber bundles (F); and*

*a perforated belt (18) wound about the one of the nip rollers (16) in a state where the perforated belt (18) slides along the guiding surface (29b),*

*wherein the suction part (17) comprises a curved surface (29c) that extends along the circumferential surface of the nip roller (20a), the nip roller (20a) comprising a groove (33), which extends in a direction intersecting the circumferential direction of the one of the nip rollers (20a) to correspond to the width of the perforated belt (18), and the depth of the groove (33) being greater than or equal to 0.04 mm.*

*2. The apparatus according to claim 1, wherein the depth of the groove (33) is greater than or equal to 0.05 mm.*

*3. The apparatus according to claim 1 or 2, wherein the width of the groove (33) is less than or equal to 1.0 mm.*

*4. The apparatus according to any one of claims 1 to 3, wherein the groove (33) is formed to extend parallel to the axial direction of the nip roller (20a).*

*5. The apparatus according to any one of claims 1 to 3, wherein the groove (33) is formed to extend diagonally with respect to the axial direction of the nip roller (20a).*

*6. The apparatus according to any one of claims 1 to 3, wherein the width (W) of the opening end of the groove (33) is wider than the width of the bottom portion of the groove (33).*

*7. The apparatus according to any one of claims 1 to 3, wherein the groove (33) is one of a plurality of grooves, the grooves being formed at a constant pitch that can be formed by gear cutting, and*



*the area ratio of the outer circumferential surface is greater than or equal to 40%.*

8. *The spinning frame, comprising the apparatus according to any one of claims 1 to 3.”*

9. Alongside IN759, the plaintiff has also been granted corresponding patent applications in Japan, Korea, Taiwan and China.

10. As borne out from the above, a spinning machine is a device that drafts fibre bundles and applies twist to them, and comprises several processes such as drafting, condensing and twisting for which it employs drafting, condensing and twisting parts.

11. IN759 relates to a fibre bundle concentrating apparatus located downstream of a draft machine of a spinning frame and concentrates fibre bundles drafted by the draft machine. It is the case of the plaintiff that IN759 has solved the technical problem of accumulation of cotton fly in the gap between the bottom nip roller, around which a perforated belt is bound, and the suction part. The said accumulation of cotton fly hinders the spinning of the machine and decreases productivity as it requires a lot of man hours to clean the parts. IN759 solves the aforesaid problem by providing grooves having depth greater than or equal to 0.04mm on the bottom nip roller. The said grooves at the gap between the nip roller and suction part prevent cotton fly from entering the gap due to increase of pressure. Also, even if cotton fly does enter the gap, the same gets caught by the grooves and gets easily removed therefrom, hence avoiding its accumulation. Resultantly, the cotton yarn is produced with less fuzzing, and hence no man hours are required to be wasted on the cleaning.

12. The plaintiff is actively engaged in marketing and sale of yarn spinning machines with the patented technology as claimed and granted in



both IN759 and IN883 worldwide and further licenses the said technology to various licensees. The plaintiff has made enormous sales across the globe, as well as in India, through spindles applying the technology of IN759.

13. As per plaintiff, the defendant is using/ intending to use and supply its patented technology claimed and granted in IN759 and IN883 without authorization from the plaintiff in its spinning machine known as Spinpact, specifically the technology disclosed in IN759 in the knurled rollers employed in Spinpact by introducing grooves greater than 0.04mm therein. The above is based on an analysis of the samples of the knurled rollers obtained by the plaintiff which were being marketed by the defendant in India and sent by the plaintiff to Carl Zeiss India (Bangalore) Pvt. Ltd. to measure the depth of the grooves therein. As per the Report dated 13.03.2023 prepared by Carl Zeiss India (Bangalore) Pvt. Ltd., as also through internal experts of the plaintiff, it was ascertained that the depth of the grooves on the knurled rollers in Spinpact was 0.15mm. The same fell within the scope of the claim granted in IN759 i.e. for groove depth of 0.04mm or more. Hence, the defendant is guilty of infringing the technology claimed by the plaintiff in IN759.

14. However, since the timeline involved for grant of a patent i.e. the mandatory period for IN759 has expired on 24.05.2025, the same is a crucial factor of vital importance, especially when by way of the present application, the plaintiff is praying for an interim order till the pendency of the present suit.

15. In any event, after filing of the written statement and replication, the defendant has subsequently filed its Counter Claim praying for declaration





of both IN883 and IN759 as invalid and revocation of the same under *Section(s) 64 and 107* of the Act, on the ground of lack of novelty and inventive step, for the technology therein being used prior to the priority date claimed in the patent, as also for the same being obvious in light of the prior art(s).

**Submissions of plaintiff:**

16. In furtherance of the averments made in the present application, Mr. Lall learned senior counsel for the plaintiff submitted that all the claims of IN759, especially the independent claim of grooves on the bottom nip roller with depth greater than or equal to 0.04mm (being 0.15mm in Spinpack), have been implemented by the defendant in Spinpack, and the same amounts to clear infringement of the patent of the plaintiff in IN759 by the defendant.

17. As per Mr. Lall, the above is apparent from the fact that the defendant has not raised the defense of non-implementation of the technology disclosed in IN759 and hence use of the same by the defendant must be deemed as admitted. Not only that, while the defendant has mentioned/ provided an alternate technology in relation to the technology disclosed in IN883, there is no such alternate technology mentioned/ provided in relation to IN759 by the defendant. The said non-disclosure of an alternate technology falls foul of the requirement of raising a claim of non-infringement as stipulated under *Rule 3(B)(vi)*<sup>7</sup> of the Delhi High Court Patent Rules, 2022.

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<sup>7</sup> “**3(B)(vi)**-If the Defendant raises a case of non-infringement, the products/process/technology being used by the Defendant would also be specified. Onus of proving infringement would, however, be in terms of Section 104A of the Act;”



18. Mr. Lall also submitted that in order to raise a question on the validity of a patent, the burden of proof is on the defendant to show certain scientific material in order to raise a credible challenge to the patent even at an interlocutory stage, and the defendant is required to “*clear the way*” either by filing a pre-grant or a post-grant opposition, or by filing a revocation petition. In this regard Mr. Lall relied upon ***Strix Ltd. v. Maharaja Appliances Ltd.***<sup>8</sup> wherein it has been held by a Coordinate Bench of this Court that the burden of proving *prima facie* vulnerability of a patent to revocation as well as “*a serious question*” to be tried is on the defendant, and that the fact of no opposition, pre-grant or post-grant, would make the said burden greater. Based thereon, Mr. Lall submitted that in the present case, the defendant had neither filed any pre-grant or post-grant opposition, so much so, it never filed a revocation petition along with the written statement. In fact, the Counter Claim has been filed subsequently, over two months after filing of the written statement and after filing of the replication by the plaintiff as well. Further relying upon the decision of another Coordinate Bench of this Court in ***Eisai Co. Ltd. & Anr. v. Satish Reddy & Anr.***<sup>9</sup>, Mr. Lall submitted that the *balance of convenience* tilts in favour of the plaintiff for grant of an interim injunction as the defendant has gone ahead with implementing the technology disclosed in IN759 without “*clearing the way*” by invoking revocation proceedings, knowing that there might be a possible challenge to the same.

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<sup>8</sup>2009 SCC OnLine Del 2825

<sup>9</sup> 2019:DHC:2476





19. Even so, addressing submissions on the lack of novelty and inventive step as alleged by the defendant and the use of grooves with depth greater than 0.04mm prior to the priority date by the plaintiff, Mr. Lall asserted that the bottom nip rollers in the plaintiff's spinning machines never had the feature of grooves ever before the priority date, and that all the bottom nip rollers in older machines, which the defendant is relying upon, have been replaced later to introduce grooves post the priority date to improve their functioning.

20. Further, *qua* disclosure on IN759 through prior art(s), Mr. Lall relying upon the judgment in *Avery Dennison Corporation v. Controller of Patents*<sup>10</sup> rendered by a Coordinate Bench of this Court, submitted that there must be a link between the problem subsisting at the time of the prior art which the same claims to solve using the disclosed technology, i.e., the solution, and the problem and solution in the patent at hand, to prove lack of inventive step. Then, relying upon *Chisum on Patents, A Treatise on the Law of Patentability, Validity and Infringement*<sup>11</sup> Mr. Lall submitted that only if any of the prior arts discloses a problem which existed at that time and for which an obvious solution was encompassed therein, can a suit patent solving a similar problem be defeated on the claim of obviousness. Mr. Lall also submitted that since none of the prior arts claim to solve the problem of accumulation of cotton fly between the nip roller and the suction part using grooves with depth greater than or equal to 0.04mm on the bottom nip roller, IN759 cannot be defeated on the ground of obviousness.

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<sup>10</sup>2022:DHC:4697

<sup>11</sup>Volume II, by Donald S Chisum



21. Mr. Lall, then relying upon *The Modern Law of Patents*<sup>12</sup>, submitted that mosaicking of prior arts, i.e. combining numerous prior inventions and claims in a complicated manner is not permissible in order to undermine the novelty of an invention, rather such complicated combination might itself be a proof of invention. To challenge novelty, a clear and specific disclosure of an invention must be present in prior arts, however, the defendant herein has claimed that the combined teachings of the prior published documents and common general knowledge existing prior to the priority date would make the technology in IN759 obvious to a person skilled in the art. This, in itself, proves that the prior arts must be combined in a complicated fashion to arrive at the technology in IN759 and hence, nullifies the claim of lack of novelty and inventive step made by the defendant.

22. Based thereon, as per Mr. Lall, the lack of alternate technology in the defendant's written statement, and specifically the defendant not "*clearing the way*", as well as in the wake of clear admission by the defendant that no prior art explicitly disclosed the claims of IN759, a *prima facie* case of infringement has been made out by the plaintiff against the defendant. The same is further solidified by the attempt at amicable resolution(s) made by the plaintiff, as well as the number of years for which the patent has been subsisting without pre-grant or post-grant oppositions across numerous jurisdictions. Lastly, since the defendant has manufactured a vast number of Spinpack models during the subsistence of IN759 which it would be able to deal in/ monetize post the

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<sup>12</sup>Second Edition, Page 35



expiry thereof, the plaintiff is likely to suffer *irreparable harm, loss and injury* to its intellectual property rights at the hands of the defendant, which cannot be compensated financially through costs, a case for grant of an interim injunction in favour of the plaintiff and against the defendant in relation to IN759 has been made out.

**Submissions of defendant:**

23. *Per contra*, as per defendant, it is not a fly-by-night operator, but a company having its office at Coimbatore, registered under the laws of India in the year 1962, and is a part of a group of companies established in 1910 for providing spinning technology to Indian textile mills, today catering to both the domestic as well as international market in Asia, Africa, Europe and Oceania. Over the years, the defendant has diversified into manufacturing machine tools and precision castings for industries world over including manufacturing components for the aerospace industry. The defendant has itself filed around 679 patent applications worldwide, including 282 patents and patent applications over the years in India.

24. At the very outset, Mr. Gaurav Pachnanda, learned senior counsel for the defendant emphasized that the defendant has claimed non- infringement, and in relation to the technology involved in IN759 submitted that the defendant acquired the know-how thereof through a German company and developed the technology prior to the plaintiff's IN759 patent. In any event, the said technology involved in IN759 lacks novelty and inventive step and was conventionally known and already in public domain since it was disclosed in the prior arts, as well as grooves with depth greater than 0.04mm were already being used on the bottom



nip rollers of spinning machines by the plaintiff prior to the priority date claimed in IN759 patent.

25. On the aspect of “*clearing the way*”, Mr. Pachnanda submitted that the principle of “*clearing the way*” only comes into effect to determine the *balance of convenience*, prior whereto the burden is on the plaintiff to establish both a *prima facie* case, as also *irreparable harm, loss and injury*. Also, as stipulated in *Section 64(1)*<sup>13</sup> of the Act, the said lack of “*clearing the way*” has no impact on the credibility of the defendant’s challenge to the validity of the patent, for which grant of the same does not create any presumption of validity. In support thereof, Mr. Pachnanda, relied upon *M/s. Bishwanath Prasad Radhe Shyam v. Hindustan Metal Industries*<sup>14</sup>, wherein the Hon’ble Supreme Court held that the decision rendered by the Controller does not guarantee the validity of a patent and the same can be challenged before the High Court(s) on various grounds in revocation or infringement proceedings. Mr. Pachnanda then relied upon *TenXC Wireless INC and Another v. Mobi Antenna Technologies (Shenzhen) Co. Ltd.*<sup>15</sup>, wherein a Coordinate Bench of this Court held that at the interlocutory stage, it is not the invalidity of the suit patent which needs to be conclusively established by the defendant, but rather the vulnerability of the suit patent to challenge, and the same can be done by showing that there is a substantial, tenable and credible question as to the validity of a patent, which raises a serious triable issue. Mr. Pachnanda

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<sup>13</sup> “**64(1)**-Subject to the provisions contained in the Act, a patent weather granted before or after the commencement of this Act may be revoked on a petition of any person interested or of the Central Government by \*\*\* on a counter-claim in a suit for infringement of the patent by the High Court on any of the following grounds, that is to say — — (\*\*\*)”

<sup>14</sup>(1979) 2 SCC 511

<sup>15</sup>2011:DHC:5605



also relied upon *Astrazeneca AV and Another v. Torrent Pharmaceuticals Ltd.*<sup>16</sup>, wherein another Coordinate Bench of this Court denied interim relief in favour of the plaintiff on the ground of obviousness of the subject matter of the suit patent, and where even though the *balance of convenience* was in favour of the plaintiff due to not “*clearing the way*”, as also *irreparable harm, loss and injury* was likely to be caused to it, injunction was denied due to the vulnerability of the validity of the patent involved which was held to outweigh the aforesaid factors.

26. Mr. Pachnanda then submitted that a *prima facie* case has not been made out in favour of the plaintiff and against the defendant as a credible challenge exists to the validity of IN759, and the same would override the effect of not “*clearing the way*”. In support thereof and referring to *Section 64(1)(f)*<sup>17</sup> of the Act, Mr. Pachnanda submitted that IN759 is liable to be revoked for being obvious and because it lacks any inventive step. Mr. Pachnanda then highlighted the contrary stances taken by the plaintiff, since it has in *paragraph no.22* of the plaint, *page no.21* of the Summary of Invention and *page no.71, 72* of its reply to the FER stated that the existence of the grooves formed on the surface of the nip roller suppresses the generation of turbulence at the gap between the nip roller and suction part, whereas in *paragraph nos.9 and 32* of its Note of Arguments dated 09.04.2025, it has stated that the invention in IN759 is based on creation of turbulence in the perforated belt on the nip roller. As per Mr. Pachnanda, the above two positions are irreconcilably contradictory

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<sup>16</sup> 2020:DHC:3270

<sup>17</sup> “**64(1)(f)**-that the invention so far as claimed in any claim of the complete specifications is obvious or does not involve any inventive step, having regard to what was publicly known or publicly used in India or what was published in India or elsewhere before the priority date of the claim;”



towards each other and cast a serious doubt on how the claimed invention acts as a technical solution to the problem highlighted, i.e. accumulation of cotton fly.

27. *Qua* obviousness of the claimed invention, Mr. Pachnanda referred to prior art *WO02/084000 A1*<sup>18</sup>, which was already teaching use of nip rollers with grooves to deal with the problem of fuzzing, and submitted that even though E1 did not disclose the depth of said grooves, the same is immaterial as it is the plaintiff's own case in *paragraph nos.34 and 35* of its Note of Arguments dated 09.04.2025, wherein *Table 1* of IN759 itself has been reproduced, that grooves having depth less than 0.04mm are not 'grooves' but rather 'roughness'. Thus, the disclosure of grooves in the nip roller in E1 would, by definition, mean grooves of depth greater than 0.04mm. Hence, the plaintiff cannot be allowed to have a monopoly on the use of grooves by mere insertion of numeric value of depth, more so, since it is obvious to a person of average intelligence and is insufficient to qualify as an inventive step.

28. Mr. Pachnanda further submitted that while mosaicking together of individual cited documents is not permissible, if it can be shown that a skilled person, without any extraordinary imagination and outside of an inventive capacity would combine the teachings of different prior arts, such a mosaic is not barred, for which reliance was placed on *Terrell on the Law of Patents*<sup>19</sup>. Then, relying upon *Bishwanath Prasad (supra)* Mr. Pachnanda submitted that an invention must be something more than a "workshop improvement" on what is already known.

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<sup>18</sup>Hereinafter '*EI*'

<sup>19</sup>Paragraph nos.12-149 to 12-153, page nos.383 to 385





29. Continuing further, Mr. Pachnanda drew the attention of this Court to the affidavit of a person ‘skilled in the art’ filed by the defendant, wherein it is stated that multiple other prior arts contained teachings of grooves, such as *US6327747B1*<sup>20</sup>, as also *US 6272824 B1*<sup>21</sup> and *CN1367282A*<sup>22</sup> used longitudinal grooves to solve the same problem of accumulation of fly. In fact, the said affidavit goes on to show/ state that *US 6425164 B2*<sup>23</sup> as well as *GB696893A*<sup>24</sup> even disclose grooves specifically of depth greater than 0.04mm, and though the same pertains to drafting rollers, it is own admission of the plaintiff in the Complete Specification that the nip roller is the same as the roller widely used for drafting. Certain other prior arts were also cited to submit that grooves of depth greater than 0.04mm on rollers in order to solve the problem of fuzzing were already known. Thus, Mr. Pachnanda asserted that the introduction of grooves with depth greater than or equal to 0.04mm on bottom nip rollers for solving the problem of fuzzing has a complete lack of inventive step and would be obvious to any person skilled in the art.

30. Lastly, Mr. Pachnanda submitted that IN759 is liable to be revoked under *Section 64(1)(e)*<sup>25</sup> of the Act for lack of novelty as well, particularly, since the plaintiff’s own machines used bottom nip rollers with grooves greater than 0.04mm in the product RX240 prior to the date of priority, i.e. before 28.05.2004, which also finds mention in the Press Release of the

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<sup>20</sup>Hereinafter ‘E2’

<sup>21</sup>Hereinafter ‘E3’

<sup>22</sup>Hereinafter ‘E4’

<sup>23</sup>Hereinafter ‘E5’

<sup>24</sup>Hereinafter ‘E6’

<sup>25</sup>“*64(1)(e)*—that the invention so far as claimed in any claim of the complete specifications is not new, having regard to what was publicly known or publicly used in India before the priority date of the claim or to what was published in India or elsewhere in any of the documents referred to in section 13(\*\*\*)”



plaintiff dated 15.10.2002. The above fact, as also the claim that the product RX240 originally had plain rollers which were later replaced with grooved ones is a bald assertion unsubstantiated by any document(s) or evidence by the plaintiff, and the above, though being material facts-in- issue pertaining to a particular model, were suppressed/ not disclosed in the plaint. To say that the onus was on the plaintiff to produce detailed drawings and technical literature with respect to the said RX240, reliance was placed upon **Gopal Krishnaji Ketkar v. Mahomed Haji Lateef and others**<sup>26</sup>, wherein the Hon'ble Supreme Court has declared the withholding of important documents in possession of a party which can throw light on the facts-in- issue to be an unsound practice.

31. Based on all the above, Mr. Pachnanda submitted that the plaintiff has failed to establish a *prima facie* case in its favour and against the defendant, more so, since a credible challenge to the validity of the patent exists. Further considering that IN759 is expiring on 24.05.2025, and the defendant has been selling Spinpact since as far back as 2018, the *balance of convenience* does not tilt in favour of the plaintiff for grant of an interim injunction. Finally, relying upon **F. Hoffman La-Roche Ltd. and another v. Cipla Ltd.**<sup>27</sup>, Mr. Pachnanda submitted that if the measure of damages recoverable in common law would be an adequate remedy after the outcome of the *lis* and it appears that the defendant would be in financial position to pay such damages, no *irreparable harm, loss and injury* would be caused to the plaintiff.

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<sup>26</sup> [1968] 3 SCR 862

<sup>27</sup> 148 (2008) DLT 598



32. A such, Mr. Pachnanda concluded his submissions by praying for dismissal of the present application.

**Rejoinder submissions of plaintiff:**

33. Mr. Lall, learned senior counsel for the plaintiff in rejoinder, reiterated the earlier submissions specifically with respect to the alleged disclosure of IN759 in the prior arts.

34. On the disclosure of grooves in E1, Mr. Lall submitted that the said prior art, though contains grooves on the bottom nip roller, does not solve the same problem as in IN759, i.e., the accumulation of cotton fly in between the bottom nip roller and the suction part which still subsisted after the implementation of the said technology, and the said prior art was only for the purpose of increasing the holding force of the perforated belt. However, be that as it may, in its written statement, the defendant has admitted that the depth of the grooves on the bottom nip roller was never disclosed in E1, which is an essential feature of the independent claim of IN759.

35. *Qua* E2, Mr. Lall submitted that though grooves on the surface in contact with the fiber in order to remove cotton fly are disclosed, the specific measurement of the depth of the said grooves is not disclosed, as also no explicit reference to the surface being bottom nip roller is contained therein.

36. In so far as for the rest of the prior arts, Mr. Lall submitted that grooves of various depths have only been disclosed in relation to drafting rollers and not the bottom nip rollers, which has even been admitted in the affidavit of a person skilled in the art filed by the defendant, and the stipulation of the defendant that drafting rollers may be used as nip rollers



is a completely unfounded bald assertion since there is no evidence to suggest that anybody used drafting rollers as nip rollers prior to IN759.

**Findings, Conclusions and Reasonings:**

37. This Court has heard Mr. Chander M. Lall, learned senior counsel for the plaintiff as also Mr. Gaurav Pachnanda, learned senior counsel for the defendant at substantial length, as also thoroughly gone through the pleadings and documents on record, the judgments cited at Bar and the relevant portions of law.

38. However, at the outset, considering that the parties have addressed all arguments *qua* IN759, which has already expired on 24.05.2025, before advertng to the factual and legal aspects/ merits involved *qua* IN759, it is imperative for this Court to dwell into the viability of the present application under *Order XXXIX Rules 1 and 2* of the CPC.

39. Notably, as per *Section 53<sup>28</sup>* of the Act, the term of a patent granted, after the commencement of the Patents (Amendment) Act, 2002, is for a fixed period of not more than *twenty years* from the date of filing of the

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<sup>28</sup> “**53(1)**-- Subject to the provisions of this Act, the term of every patent granted, after the commencement of the Patents (Amendment) Act, 2002, and the term of every patent which has not expired and has not ceased to have effect, on the date of such commencement, under this Act, shall be twenty years from the date of filing of the application for the patent. Explanation.-For the purposes of this sub-section, the term of patent in case of International applications filed under the [Patent Cooperation Treaty](#) designating India, shall be twenty years from the international filing date accorded under the [Patent Cooperation Treaty](#).  
(2) A patent shall cease to have effect notwithstanding anything therein or in this Act on the expiration of the period prescribed for the payment of any renewal fee, if that fee is not paid within the prescribed period or within such extended period as may be prescribed.  
(3) [Omitted]  
(4) Notwithstanding anything contained in any other law for the time being in force, on cessation of the patent right due to non-payment of renewal fee or on expiry of the term of patent, the subject matter covered by the said patent shall not be entitled to any protection.”



application thereof. It is also stipulated therein that, after expiration of the said term of *twenty years*, the said patent shall cease to have effect. Meaning thereby, the life/ term/ period of the said '*expired*' patent cannot be renewed by a patent holder since it lapses once the said mandatory period of *twenty years* is over. Resultantly, upon expiry of the said mandatory period of the term of *twenty years* of the patent, the patent holder cannot seek to claim any kind of protection *qua* it. Further, "...

*...the subject matter covered by the said patent shall not be entitled to any protection*" means that the said technologies/ advancements disclosed by the patent become a part of public domain and nobody can be prohibited from usage/ exploitation of the same.

40. The period prescribed therein for a maximum period of *twenty years* in the Act is with a specific purpose. The Legislature, in its wisdom, has prescribed the said period of *twenty years* keeping in mind the overall social and economic benefit of humanity at large, and especially that no patent holder like the plaintiff, can be allowed to claim a lifetime monopoly over a patent after its term, once it has expired. Thus, this Court being bound by the stipulations of the Statute/ Act, granting an injunction of the nature sought by the plaintiff herein, and that too at this stage, when the life/ term/ period of the patent IN759 has already expired, would lead to anomalies and in fact, be futile. This Court cannot grant anything by way of the reliefs sought for in the present proceedings, particularly, since it would be beyond the scope thereof and/ or will be what is neither statutorily available nor permissible.

41. Applying the aforesaid provisions to the factual matrix involved herein, it entails that the said patent, IN759, upon expiry of the limited/



mandatory period of *twenty years* on 24.05.2025, is freely available in public domain now, more so, since there is interestingly no provision for renewal thereof in the Act. Therefore, once in public domain, everyone including the defendant herein, is/ will be free to use, manufacture, offer, sell, or like, IN759 in any form whatsoever. This is since the plaintiff has lost its right to enforce the said IN759 after the expiry of the limited/ mandatory period of *twenty years*.

42. In view thereof, more so, whence the plaintiff itself instituted the present suit for permanent injunction restraining infringement of IN759 which has expired, and also claimed the relief of interim injunction to the same effect in the present application, there can hardly be any occasion/ reason/ cause for this Court to dwell upon the aforesaid submissions addressed by the learned senior counsels for the parties and to tread onto the unwarranted path of adjudicating the present application on merits. As far as the apprehensions of the plaintiff in relation to Spinpack products manufactured during the existence of IN759 are concerned, the same, in the opinion of this Court, can be compensated through costs at the final determination of the pending *lis*.

43. In fact, this Court finds able support in ***Novartis AG & Anr. v. Natco Pharma Limited***<sup>29</sup>, wherein recently, on 02.08.2024, the Hon'ble Supreme Court, while dealing with similar facts, and under similar circumstances in a Special Leave Petition arising out of a judgment dated 24.04.2024 passed by a Division Bench of this Court in FAO(OS)(COMM) 178/2021 entitled ***Natco Pharma v. Novartis AG &***

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<sup>29</sup>SLP(C) No.16237/2024





**Anr.**, in an appeal against an order passed by a learned Single Judge of this Court in CS(COMM) 256/2021 on 13.12.2021 entitled **Novartis AG & Anr. v. Natco Pharma Limited**, held as under:-

*“6. Therefore, even before the appeal was reheard between November 2023 and 7 March 2024, the patent had expired on 21 May 2023. Hence, it was unnecessary for the Division Bench to enter upon a detailed review on merits, as it did in the course of its judgment since the injunction which had been issued by the Single Judge had worked itself out, following the expiry of the patent on 21 May 2023. The judgment of the Single Judge would cease to have any practical relevance once the patent expired.”*

44. For the sake of clarity, the aforesaid was a case wherein the learned Single Judge *vide* order dated 13.12.2021 restrained the defendant therein from dealing in any product with the Active Pharmaceutical Ingredient *Eltrombopag Olamine* either alone or in combination with any other compound amounting to infringement of patent no. *IN233161* in any manner whatsoever. In a challenge thereto, the Hon’ble Division Bench of this Court rendered its judgment on 24.04.2024, however, the aforesaid patent had already expired prior thereto on 21.05.2023. It was after taking note of the aforesaid fact that the Hon’ble Supreme Court set aside both the judgments rendered by the learned Single Judge as well as by the Hon’ble Division Bench, for the reason that after the expiry of the patent, any review on merits of an interlocutory injunction application is unnecessary, as the grant of an injunction would cease to have any practical relevance once the patent expired.

45. Considering all the aforesaid, as also the nature of the suit and the reliefs sought by the plaintiff in the present application, it is reiterated that there is no manner of doubt in the mind of this Court that there is hardly anything left for this Court to effectuate upon at this stage. Practically, all



that is primarily left for adjudication *inter se* the parties is whether the defendant was guilty of infringing IN759 of the plaintiff during its subsistence and, if so, what are the financial implications thereof. Needless to say, the above are besides any other relief(s) available to the plaintiff in accordance with law. In any event, the aforesaid are subject to trial, for which evidence will have to be led by both the parties involved.

46. In effect, as per above, especially in view of the provisions contained in *Section 53* of the Act, in any proceedings like the present one wherein an order of *ad interim* injunction *qua* a patent is sought by a patent holder like the plaintiff to restrain the defendant till the pendency of the suit, the life/ term/ period of a patent like IN759 are of significant importance and play a very vital role. Thus, even though the plaintiff may have a *prima facie* case with the *balance of convenience* in its favour and a likelihood of *irreparable harm, loss and injury* to it, the fact of expiry of the patent of the plaintiff is a crucial factor which would decide the fate of the present application.

**Conclusion:**

47. In view of the aforesaid analysis and reasoning, it is clear that since IN759 has already expired on 24.05.2025, this Court is precluded from passing any effective order restraining infringement of the said patent. As such, any finding on the merits by this Court would be a nullity and are likely to prejudice the fate of the present proceedings.

48. With respect to IN883, as observed hereinabove, since no submissions have been advanced by the parties, and no relief(s) has/ have been pressed for by the plaintiff, the same is not being dealt with by this Court.



49. However, for the interest of the parties involved and considering the nature of the dispute involved as also the present stage it would be prudent for this Court to direct the defendant to file an affidavit of one of its responsible representative along with its Balance Sheets/ Books of Accounts/ relevant statements/ ITR records and/ or any other sufficient proofs/ records maintained with it since and from when it has been dealing with Spinpact, containing the alleged features of IN759, including the products it has manufactured, but is yet to sell, upto the date of expiry of IN759, i.e. 24.05.2025, within a period of *eight weeks* from today. It is directed accordingly. Moreover, since the aforesaid is subject to final adjudication of the other/ relevant rights and contentions raised by the parties in the present proceedings, the defendant is permitted to file the aforesaid affidavit in a Sealed Cover, which, shall be open for inspection of the plaintiff, subject to the orders of the Court.

50. Accordingly, the present application is disposed of in the aforesaid terms, leaving the parties to bear their own/ respective costs.

**CS(COMM) 881/2024, I.A. 5993/2025 (of plaintiff for condonation of 7 days delay in filing replication and affidavit of admission/denial), CC(COMM) 22/2025 & I.A. 6983/2025 (of defendant for discovery and production of documents)**

51. List before the learned Joint Registrar for completion of pleadings, admission/ denial of document(s), if any on 20.07.2025.

**SAURABH BANERJEE, J.**

**JULY 01, 2025/AB**