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

\# **CNR No. DLHC010335962026**

\+ CS(COMM) 802/2026

NOVARTIS AG & ANR. .....Plaintiffs

Through: Mr. Hemant Singh, Ms. Mamta, Mr. Abhay Tandon, Ms. Kriti C. and Ms. Ritik G., Advocates.

versus

ALEMBIC PHARMACEUTICALS LIMITED .....Defendant

Through: Mr. Ashutosh Kumar, Mr. Devanshu Khanna and Ms. Radhika P., Advocates.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

O R D E R

% 31.07.2026

I.A. 19974/2026 (exemption)

I.A. 19976/2026 (seeking leave to redact the names of the third-parties in RTI response dated 17.10.2025)

I.A. 19977/2026 (exemption from dividing documents in part-IV in volumes)

Exemptions granted, subject to just exceptions.

The applications stand disposed-of.

I.A. 19973/2026 (seeking leave to deliver interrogatories and production of documents)

I.A. 19975/2026 (seeking leave to file additional documents)

In view of the orders passed in the main suit, the present applications are disposed-of as infructuous.

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I.A. 19972/2026 (exemption from pre-litigation mediation)

By way of the present application filed under section 12A of Commercial Courts Act, 2015 read with section 151 of the Code of Civil Procedure 1908 ('CPC'), the plaintiffs seek exemption from attempting pre-litigation mediation.

2. Having regard to the facts and circumstances of the present case, and in light of the judgment of the Supreme Court in ***Yamini Manohar vs. T.K.D. Keerthi***[1] and of a Division Bench of this court in ***Chandra Kishore Chaurasia vs. R A Perfumery Works (P) Ltd.***[2], the plaintiffs are exempted from attempting pre-litigation mediation.

3. The application stands disposed-of.

CS(COMM) 802/2026

I.A. 19971/2026 (interim injunction)

4. By way of the present plaint, the plaintiffs *inter-alia* seek permanent injunction restraining the defendant from dealing in Active Pharmaceutical Ingredient ('API'), pharmaceutical products or formulations containing 'Dabrafenib' or any other form or combination, whether in salt or crystalline or any other form, of the said API in any manner.

5. Mr. Hemant Singh, learned counsel appearing for the plaintiffs submits, that plaintiff No.1 holds a patent on the compound Dabrafenib *vidé* Indian Patent No. 275655. He submits that by various orders passed by Co-ordinate Benches of this court, other defendants who are

[1] (2024) 5 SCC 815

[2] 2022 SCC OnLine Del 3529

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similarly situate as the present defendant, have made statements admitting plaintiff No.1's patent on the said compound and have given undertakings not to commercialise the patented compound, and to restrict their use only to research.

6. Mr. Singh has drawn attention of the court to orders so passed by Co-ordinate Benches.

7. Issue summons in the suit and notice on I.A. 19971/2026.

8. Learned counsel appears on behalf of the defendant on advance copy; accepts notice; and submits that they are willing to give an undertaking in the same terms as the undertakings given by other similarly placed parties.

9. Counsel submits, that in fact, the defendant has made similar statements in relation to other drugs over which other entities have patents.

10. The submission made on behalf of the defendant is acceptable to the plaintiffs.

11. Accordingly, the present suit is disposed-of recording the statement and undertaking given on behalf of the defendant and with the directions and observations that follow:

    11.1. Mr. Ashutosh Kumar, learned counsel appearing on behalf of the defendant states, on instructions, that the defendant has not commercialised any product containing the patented product 'Dabrafenib' and does not intend to do so during the validity of the suit patent. Counsel further states that this statement be taken record and the suit be disposed-of on the basis of their statement. However, Mr. Kumar requests that the court protect the

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defendant's rights under Section 107A of the Patents Act, 1970 to use the parented pharmaceutical product 'Dabrafenib' for purposes of research.

11.2. The statement made by Mr. Kumar is taken on record, holding the defendant bound by that statement. It is made clear that the defendant shall not commercially manufacture, launch, import, export or deal in any API, pharmaceutical products or other formulation containing the patented compound 'Dabrafenib' during the validity of the suit patent. It is clarified however, that the rights of the defendant under section 107A of the Patents Act are protected, so long as the conditions required under the said provision are duly complied with by the defendant.

12. The present suit is disposed-of in the above terms.

13. Pending applications, if any, also stand disposed-of.

14. The defendant shall be bound by the statement and undertaking given by their counsel as hereinabove recorded.

15. Mr. Singh points-out that the defendant's drug is also listed on Pharmacompass, which amounts to offering the drug for sale; and therefore to commercialisation of the suit patent.

16. In response, learned counsel for the defendant submits that Pharmacompass has listed the drug arising from the approval given by the Drug Controller and not at the defendant's instance. Counsel submits that the defendant would write to Pharmacompass requesting them to remove the drug from their platform, enclosing therewith a copy of this order.

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17. In view of what has been stated on behalf of the defendant, Pharmacompass is directed to remove the drug from their platform *forthwith* upon receipt of a communication to the above effect from the defendant.

18. At this stage, learned counsel appearing for the plaintiffs seek refund of the entire court-fee affixed on the plaint, submitting that the matter is at the very initial stage.

19. This is the first listing of the suit.

20. In view of the Court Fees (Delhi Amendment) Act, 2026 which came into effect on 06.03.2026, section 16-A of the Court Fees Act, 1870 (as was applicable to Delhi) has been omitted. Accordingly, section 16 of the Court-fees Act, 1870 would be applicable, which allows for refund of the *entire* amount of court fee affixed on the plaint.

21. Accordingly, the Registry is directed to draw-up the requisite certificate in favour of the plaintiffs for refund of the *entire* court fee affixed on the plaint within 04 weeks from today.

ANUP JAIRAM BHAMBHANI, J

JULY 31, 2026
V.Rawat

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