

IN THE SUPREME COURT OF INDIA**CIVIL APPELLATE JURISDICTION****SPECIAL LEAVE PETITION (CIVIL) NO 16237 OF 2024****Novartis AG & Anr****... Petitioners****Versus****Natco Pharma Limited****... Respondent****ORDER**

- 1 The Special Leave Petition arises from a judgment dated 24 April, 2024 of a Division Bench of the High Court of Delhi.
- 2 The judgment of the Division Bench arose in an appeal against a judgment of the Single Judge dated 13 December 2021. By the order of the Single Judge, which was impugned in appeal, the Single Judge had granted an injunction in the suit instituted by the respondent in the following terms :-

“the defendant is restrained by itself or through its directors, group companies or sister concerns, associates, divisions, assigns in business, licensees, franchisees, agents, stockist, distributors and dealers from using, manufacturing (either through itself or through third parties), importing, selling, offering for sale either by way of promotion or tender or any other means, exporting, directly or indirectly dealing in Active Pharmaceutical Ingredient (API), pharmaceutical products, or formulation containing Eltrombopag Olamine (Eltrombopag bis

(monoethanolamine)) either alone or in combination with any other compound or API or in any other form as may amount to infringement of suit patent IN 233161 of the Plaintiff 1 either under the brand Trombopag or any other brand."

- 3 The order of the Single Judge was carried in appeal.
- 4 The Division Bench reserved its judgment on 20 July 2022. During the pendency of the proceedings, the patent on which the petitioners have relied expired on 21 May 2023.
- 5 In November 2023, the proceedings were mentioned again before the Division Bench at the behest of the respondents. The appeal was reheard until 7 March 2024. The impugned judgment was rendered on 24 April 2024.
- 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.
- 7 We, therefore, in these circumstances, set aside both, the judgment of the Division Bench dated 24 April 2024 as well as the judgment of the Single Judge dated 13 December 2021. Neither of the two orders shall be cited as a precedent in any other case.
- 8 Since the petition has been disposed of on the above grounds that this Court has

not expressed any opinion on the merits of the issues which would fall for consideration in the suit.

9 The Special Leave Petition is accordingly disposed of.

10 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
August 02, 2024
GKA

ITEM NO.23

COURT NO.1

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 16237/2024

(Arising out of impugned final judgment and order dated 24-04-2024 in FAO(OS)(COMM) No. 178/2021 passed by the High Court of Delhi at New Delhi)

NOVARTIS AG & ANR.

Petitioner(s)

VERSUS

NATCO PHARMA LIMITED

Respondent(s)

(FOR ADMISSION and IA No.163304/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 02-08-2024 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
 HON'BLE MR. JUSTICE J.B. PARDIWALA
 HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
 Mr. Neeraj Kishan Kaul, Sr. Adv.
 Mr. Hemant Singh, Adv.
 Mr. Mamta Rani Jha, Adv.
 Ms. Diksha Rai, AOR
 Mr. Siddhant Sharma, Adv.
 Ms. Garima Mehta, Adv.
 Ms. Atiga Singh, Adv.
 Mr. Arijit Dey, Adv.
 Ms. Apurva Sachdev, Adv.
 Ms. Pritha, Adv.
 Ms. Ira Mahajan, Adv.
 Ms. Dhanya, Adv.
 Mr. Udit Dedhiya, Adv.

For Respondent(s) Mr. C.S. Vaidyanathan, Sr. Adv.
Mr. Guruswamy Nataraj, Adv.
Mr. J Sai Deepak, Adv.
Mr. V Shyamohan, Adv.
Mr. Kuriakose Varghese, Adv.
Mr. Shashikant Yadav, Adv.
Mr. Rahul Bhujbal, Adv.
Ms. Tissy Annie Thomas, Adv.
Mr. Vedant Goel, Adv.
M/S. Kmnp Law Aor, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 The Special Leave Petition is dismissed in terms of the signed order.
- 2 Pending applications, if any, stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)