CNR No : HCBM020002052018

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS COMMERCIAL DIVISION

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COMMERCIAL IP SUIT NO. 153 OF 2018

Bharat Bhogilal Patel ...Plaintiff

Versus

Raymond Limited ...Defendant

WITH
COUNTER CLAIM NO. 12 OF 2019
IN
COMMERCIAL IP SUIT NO. 153 OF 2018

Mr. Amey Nargolkar, *Counsel, a/w Mr. Janaksinh Jhala, Mr. Dhiren Karania, Mr. Mathews Savio i/b Khaitan & Co., for Defendant.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE: NOVEMBER 2, 2026

ORDER :

1. Listed at the request of the Defendant with notice to the Plaintiff.

2. In relation to paragraph No. 4 of the order dated October 5, 2026, which relates to Commercial IP Suit No. 153 of 2018, Learned Advocate for the Defendant points to the Counter Claim, indicating that specific grounds for

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revocation have been taken out, and therefore submits that the following issue needs to be framed:

> *"Whether the Defendant proves that the Plaintiff's Patent Nos. 188787 and 189027 are invalid and liable to be revoked under provisions of Section 64 of the Patents Act, 1970?"*

3. Learned Advocate for the Plaintiff points to Judgement of the Supreme Court in the case of ***Dr. Aloys Wobben***[1] and submits that it is not open to the Defendant to sustain the Counter Claim, since it is in the nature of a revocation, the Defendant having chosen not to file a Revocation Petition.

4. In my view, at this stage, the issues are being framed in terms of the pleadings made by the parties, and as a matter of fact, no Revocation Petition has been filed by the Defendant. The objective behind Section 64(1) of the Patents Act, 1970, and the decision cited above, *prima facie*, is aimed at ensuring that parallel proceedings with conflicting outcomes are avoided. In other words, there is no Revocation Petition in the instant case, and the submissions on the merits for revocation are in fact taken up only in the Counter Claim. Therefore, the objection to the amendment does not appeal to me. Consequently, paragraph No. 4 of the order dated October 5, 2026shall be restated as follows:

1 *Aloys Wobben v. Yogesh Mehra,* ***(2014) 15 SCC 360.***

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A] Whether the Plaintiff proves that the Defendant has infringed the Plaintiff's Registered Patent Nos. 188767 and 189027?

B] Whether the process used by the Defendant is distinct from the process registered under the Plaintiff's Registered Patent No. 189027?

C] Whether the Plaintiff proves Defendants had knowledge of the Plaintiff's Registered Patent Nos. 188767 and 189027?

D] Whether Plaintiff's Registered Patent Nos. 188767 and 189027 have been revoked by the order dated March 14, 2013 and March 7, 2014?

E] Whether the Plaintiff proves that it is entitled to damages and if yes, to what extent?

F] Whether the Plaintiff proves that the Defendant be directed to deliver up material, as prayed for in prayer (c) of the Plaint?

F1] Whether the Defendant proves that the Plaintiff's Patent Nos. 188787 and 189027 are invalid and liable to be revoked under provisions of Section 64 of the Patent Act, 1970?

G] What order and decree?

H] What order as to interest and costs?

I] Whether the Plaintiff proves that he has commercially exploited the Patents?

J] Whether the Defendant proves that the filing of the present Plaint is abuse of process of law?

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5. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]

Chaitanya

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