

**(2011) 09 DEL CK 0175**  
**In the Delhi High Court**  
**Case No : CS (OS) 2282 of 2011**

Vifor (International) Ltd.

APPELLANT

Vs

D. Mohan Rao and Others

RESPONDENT

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**Date of Decision :** 16-09-2011

**Acts Referred:**

**Citation :** (2011) 09 DEL CK 0175

**Hon'ble Judges :** G.S. Sistani, J

**Bench :** Single Bench

**Advocate :** Praveen Anand, Vaishali Mittal and Abhilasha Nautiyal, for the Appellant;

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## Judgement

G.S. Sistani, J.

I.A. No. 14817/2011

1. This is an application filed by the Plaintiff seeking exemption from filing clearer copies, original documents, English translations and certified copies.
2. Let the clearer copies, original documents, English translations and certified copies be filed within ten weeks from today.
3. Application stands disposed of.

CS(OS) 2282/2011 and I.A. No. 14816/2011 (STAY)

4. Plaintiff has filed present suit for permanent injunction restraining infringement of Indian Patent No. 221536, delivery up, rendition of accounts and damages. It is stated that the Plaintiff through its comprehensive, clinical and scientific development programmes has invented an iron replacement product portfolio consisting of its product Ferinject?, Venofer? and Maltofer?.

5. Mr. Anand, also submits that the patent in the suit relates to the Plaintiff's invention, which is novel water-soluble iron carbohydrate complex and a process for preparing the same.

6. The certified copies of the Plaintiff's certificate for its Indian patent No. 221536 have been placed on record. It is submitted that Plaintiff has learnt recently that Defendant No. 1 who is also involved in manufacture and marketing of bulk pharmaceuticals products, has launched an infringing product ?iron carboxymaltose also known as ferric carboxymaltose? from Defendant No. 1 and 2?s website [www.symedlabs.com](http://www.symedlabs.com) and subsequently from the other third party websites wherein Defendant is advertising and offering for sale its infringing version of ferric carboxymaltose compound also known as iron carboxymaltose. A screen shot of the website of Defendants showing their advertisement and offer for sale of the infringing iron carboxymaltose has been reproduced in the plaint. The Plaintiff has also extracted a reference chart showing the infringement by the Defendant of the Plaintiff's patent. It is submitted that the conduct of the Defendant is also in violation of the provisions of The Drugs and Cosmetic Acts 1940. Learned Counsel also submits that patent of the Plaintiff is valid for 20 years since 2003 in India and is renewed till 2012. Hence, counsel for the Plaintiff prays for an ex parte interim injunction.

7. Issue summons in the suit and notice in the application to the Defendants, returnable on 15.12.2011.

8. I have heard counsel for the Plaintiff and perused the plaint, application and the documents and am satisfied that this is a fit case for grant of ex parte injunction and in case ex parte injunction is not granted, Plaintiff will suffer irreparable loss and injury. Accordingly, Defendants, their directors, employees, officers, servants, agents are restrained from making, selling, distributing, advertising including on its website [www.symedlabs.com](http://www.symedlabs.com) and third party websites, exporting, offering for sale, and in any other manner, directly or indirectly, dealing in any product that infringes the subject matter of IN?536.

9. Provisions of Order 39 Rule 3 CPC be complied with within seven days.