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

**Date of Decision: 29<sup>th</sup> July 2024**

+ CS(OS) 320/2021, I.A. 13602/2022 and I.A 1724/2024

RESIDENT DOCTORS ASSOCIATION, ALL INDIA INSTITUTE  
OF MEDICAL SCIENCES (AIIMS), RISHIKESH AND ORS.

..... Plaintiffs

Through: Mr. Akhil Sibal, Senior Advocate  
with Mr. Kotla Harshvardhan, Ms.  
Asavari Jain, Ms. Rishbha Arora and  
Mr. Arjun Malik, Advocates.

versus

RAM KISHAN YADAV ALIAS SWAMI RAMDEV AND ORS.

..... Defendants

Through: Mr. Inderbir S. Alag, Senior  
Advocate with Mr. Simranjeet Singh,  
Mr. Rohit Gandhir, Mr. Rishabh Pant,  
Mr. Raushal Kumar, Ms. Apurbaa  
Dutta, Mr. Neeraj Srivastava, Mr.  
Hargun Singh Kalra, Ms. Ashita  
Nigam, Mr. Surender S. and Ms.  
Nikita Sharma, Advocates for D-1 to  
6.

Mr. Varun Pathak, Mr. Shyamal  
Anand and Mr. Akhil Shandilya,  
Advocates for D-7.

Ms. Mamta R. Jha, Mr. Rohan Ahuja,  
Ms. Shruttima Ehersa, Mr. Rahul  
Choudhary, Mr. Vatsalya Vishal and  
Ms. Diya Viswanath, Advocates for  
D-8.

Mr. Aadhar Nautiyal and Mr. Deepak  
Gogia, Advocates for D-9.



**HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI**

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

**ANUP JAIRAM BHAMBHANI, J.**

**I.A 8420/2021**

By way of the present application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure 1908 ('CPC'), the plaintiffs seek to restrain defendant No.1 from distributing, transmitting, publishing, re-publishing or releasing in any manner to the public, the impugned statements as contained in Schedule-A to the plaint, or any other similar statements, either through print, electronic media or otherwise, either directly or through his associates, agents, employees, officers or partners, either directly or indirectly, until final disposal of the present suit. The plaintiffs also seek a direction to the defendants to remove/take-down all active URLs and videos pertaining to the impugned statements made by defendant No.1 or his associates, agents, employees, officers or partners. It may be mentioned here that the material that is subject matter of the present application pertains to a drug manufactured, advertised and marketed by the concerned defendants under the name and style of '*Divya Coronil*', as detailed hereinafter.

2. Plaintiff No.1 is an association of resident doctors of several prestigious medical institutions in Uttar Pradesh, Bihar, Odisha, Punjab and Telangana; and plaintiffs Nos.2 to 13 are individual resident doctors and/or office bearers of certain other doctors' associations who have filed the suit to raise issues of public nuisance



and wrongful acts affecting the public at-large as detailed hereinafter. Defendants Nos.1 and 2 are individuals who are associated with and are in-charge and in control of the affairs of the entities arrayed as defendants Nos.3 to 6 in various capacities. Defendants Nos.7 to 9 are social-media platforms. Defendant No.10 is ‘John Doe’.

3. Notice on the present application was issued on 27.10.2021; following which, replies have been filed by defendants Nos.1 to 5 and defendants Nos.7 to 9 on various dates. Defendant No.6 has not filed any reply to the present application. Rejoinders dated 11.04.2022 have also been filed to those replies. Defendants Nos.1 to 6 are the parties contesting the present suit and application and are therefore hereinafter referred to as the ‘contesting defendants’.
4. The court has heard Mr. Akhil Sibal, learned senior counsel appearing for the plaintiffs and Mr. Inderbir S. Alag, learned senior counsel for the contesting defendants at length. The plaintiffs and the contesting defendants have also filed written synopsis of their respective arguments in support of the oral submissions made.
5. It requires to be noted that defendants Nos.7 to 9 are social-media intermediaries; are non-contesting parties; and have therefore not been called-upon to make submissions on the present application.
6. Subsequent to notice being issued on the present application, the parties had made an attempt to put the controversy to rest by defendants Nos.1 and 2 drawing-up and publishing a clarification. However despite several attempts, those efforts have not fructified.
7. Thereafter, *vide* order dated 26.08.2022, this court deferred further hearings in the matter to obtain clarity as to the scope of the petition



bearing W.P. (C) No. 645/2022 titled *Indian Medical Association & Anr. vs. Union of India* that is pending before the Supreme Court, since some of the parties before the Supreme Court are also parties to the present proceedings, and it was not clear, at that stage, whether the issues in the two proceedings were also the same. By way of the said order, defendant No.3 was directed to file an application seeking clarification from the Supreme Court as to whether the present proceedings may continue while proceedings were pending consideration of the Supreme Court in the aforesaid matter. *Vide* order dated 21.11.2023 made by the Supreme Court in W.P. (C) No.645/2022, the Supreme Court was pleased to observe as follows :

*“4. It is made clear that the suit(s) pending on issues pertaining inter-se, that is, between the petitioners/other persons and the Respondent No.5 have not been stayed, and shall not be hindered only by reason of the pendency of the present writ petition.”*

(emphasis supplied)

8. Based on the observations made by the Supreme Court as above, *vide* order dated 15.12.2023, this court proceeded to hear final arguments on the present application.
9. Thereafter, the contesting defendants attempted to argue that the claims made in the present suit and application had already been addressed in various orders made by the Supreme Court in the aforesaid proceedings; and that therefore, no orders were required to be passed in the present matter. However, the plaintiffs refuted that submission; and upon a consideration of the issue, this court is of the view that the prayers made in the present application do not stand disposed-of by the various orders made by the Supreme Court. The



prayers in the present matter therefore survive; and are required to be considered in these proceedings.

### **BRIEF BACKGROUND**

10. The brief factual matrix that is relevant for purposes of the present application is as follows :
  - 10.1. The present suit was instituted under section 91 of the CPC impugning certain statements made by defendant No. 1 on public platforms during the COVID-19 pandemic, which statements, the plaintiffs allege, seek to mislead and misrepresent to the public that the ayurvedic drug *Divya Coronil Tablet* or *Coronil* (a tablet manufactured and marketed by the contesting defendants), is a complete *medicine, treatment and cure* for COVID-19 and that ‘allopathy’ (the modern system of medicine) is working to the detriment of patients suffering from COVID-19.
  - 10.2. Leave under section 91 CPC to institute the present suit was granted by the court *vide* order dated 27.10.2021.
  - 10.3. The plaintiffs have impugned the statements made by the contesting defendants as set-out in Schedule-A appended to the plaint as well as in the documents filed by the plaintiffs, as tabulated later in this judgment.

### **PLAINTIFFS’ SUBMISSIONS**

11. Mr. Sibal, learned senior counsel appearing for the plaintiffs has submitted that the contesting defendants have undertaken a sustained misinformation campaign by making false and misleading statements



regarding the medicinal efficacy of the ayurvedic drug *Divya Coronil* or *Coronil* (the “said Tablet”) as a medicine, treatment and cure for COVID-19. It has been further urged on behalf of the plaintiffs that the contesting defendants have in fact actively discouraged the general public from taking prescribed and approved allopathic medicines and treatment for that disease. Mr. Sibal has drawn attention to the offending statements made by the said defendants, as set-out in Schedule-A to the plaint and in certain documents filed on behalf of the plaintiffs, which are summarized below :

S. No.	Date	Document Reference	URL
1.	19.02.2021	Tweet posted by defendant No.1 launching ‘Coronil’ as <i>evidence-based medicine</i> for COVID-19. (Tweet appended as Document No. 17 filed by the plaintiffs)	<a href="https://twitter.com/yogrishiramdev/status/1362611719378411524">https://twitter.com/yogrishiramdev/status/1362611719378411524</a>
2.	19.02.2021	Video uploaded on News18 India’s YouTube Channel featuring defendant No. 1, on how ‘Coronil’ has saved numerous lives. (Transcript of video is contained in Document No. 19 filed by the plaintiffs)	<a href="https://www.youtube.com/watch?v=bUY2qyBmbvA">https://www.youtube.com/watch?v=bUY2qyBmbvA</a>
3.	19.02.2021	Tweet posted by Patanjali Dairy launching ‘Coronil’ as <i>evidence-based medicine</i> for COVID-19. (Tweet appended as Document No. 21 filed by the plaintiffs)	<a href="https://twitter.com/PatanjaliDairy/status/1362624808320598018">https://twitter.com/PatanjaliDairy/status/1362624808320598018</a>



S. No.	Date	Document Reference	URL
4.	19.02.2021	Tweet posted by Patanjali Dairy launching 'Coronil' as <i>evidence-based medicine</i> for COVID-19. (Tweet appended as Document No. 22 filed by the plaintiffs)	<a href="https://twitter.com/PatanjaliDairy/status/136262594320690908">https://twitter.com/PatanjaliDairy/status/136262594320690908</a>
5.	19.02.2021	Tweet posted by defendant No. 3 launching 'Coronil' as <i>evidence-based medicine</i> for COVID-19. (Tweet appended as Document No. 23 filed by the plaintiffs)	<a href="https://twitter.com/PypAyurved/status/1362627186272858112">https://twitter.com/PypAyurved/status/1362627186272858112</a>
6.	19.02.2021	Tweet posted by Patanjali Dairy launching 'Coronil' as <i>specifically eliminating the effect</i> of COVID-19. (Tweet appended as Document No. 24 filed by the plaintiffs)	<a href="https://twitter.com/PatanjaliDairy/status/1362627690864369667">https://twitter.com/PatanjaliDairy/status/1362627690864369667</a>
7.	19.02.2021	Tweet posted by Patanjali Dairy launching 'Coronil' as <i>specifically eliminating</i> COVID-19. (Tweet appended as Document No. 25 filed by the plaintiffs)	<a href="https://twitter.com/PatanjaliDairy/status/1362628379799773187">https://twitter.com/PatanjaliDairy/status/1362628379799773187</a>
8.	19.02.2021	Tweet posted by defendant No. 3 launching 'Coronil' as having <i>strong potential to fight</i> COVID-19. (Tweet appended as Document No. 26 filed by the plaintiffs)	<a href="https://twitter.com/PypAyurved/status/1362628999734652928">https://twitter.com/PypAyurved/status/1362628999734652928</a>
9.	19.02.2021	Tweet posted by defendant No. 3 launching 'Coronil' as <i>medicine</i> for COVID-19. (Tweet appended as Document No. 27 filed by the plaintiffs)	<a href="https://twitter.com/PypAyurved/status/1362630768271364101">https://twitter.com/PypAyurved/status/1362630768271364101</a>



S. No.	Date	Document Reference	URL
10.	19.02.2021	Tweet posted by Patanjali Dairy launching 'Coronil' as <i>cure</i> for COVID-19. (Tweet appended as Document No. 28 filed by the plaintiffs)	<a href="https://twitter.com/PatanjaliDairy/status/1362634764440625161">https://twitter.com/PatanjaliDairy/status/1362634764440625161</a>
11.	19.02.2021	Tweet posted by Patanjali Dairy launching 'Coronil' as <i>medicine and cure</i> for COVID-19. (Tweet appended as Document No. 29 filed by the plaintiffs)	<a href="https://twitter.com/PatanjaliDairy/status/1362634850964889603">https://twitter.com/PatanjaliDairy/status/1362634850964889603</a>
12.	19.02.2021	Tweet posted by defendant No. 3 launching 'Coronil' as <i>medicine</i> for COVID-19. (Tweet appended as Document No. 30 filed by the plaintiffs)	<a href="https://twitter.com/PypAyurved/status/1362639239297396736">https://twitter.com/PypAyurved/status/1362639239297396736</a>
13.	25.02.2021	Tweet posted by defendant No. 3 advertising 'Coronil' as <i>evidence-based medicine</i> for COVID-19. (Tweet appended as Document No. 40 filed by the plaintiffs)	<a href="https://twitter.com/PypAyurved/status/1364811302674173952">https://twitter.com/PypAyurved/status/1364811302674173952</a>
14.	25.02.2021	Tweet posted by defendant No. 3 advertising 'Coronil' as <i>evidence-based ayurvedic medicine</i> for COVID-19. (Tweet appended as Document No. 41 filed by the plaintiffs)	<a href="https://twitter.com/PypAyurved/status/1364816136689254406">https://twitter.com/PypAyurved/status/1364816136689254406</a>
15.	17.03.2021	Tweet posted by defendant No. 2 which records that 'Coronil' can <i>prevent</i> COVID-19 along with a research article published in the Journal of Inflammation Research. (Tweet as well as research article appended as Document No. 44 filed by the plaintiffs)	<a href="https://twitter.com/Ach_Balkrishna/status/1372053851285512192">https://twitter.com/Ach_Balkrishna/status/1372053851285512192</a>





S. No.	Date	Document Reference	URL
16.	17.03.2021	Tweet posted by defendant No. 2 which records that 'Coronil' is <i>effective on</i> COVID-19 virus. (Tweet appended as Document No. 46 filed by the plaintiffs)	<a href="https://twitter.com/Ach_Balkrishna/status/1372057766206971909">https://twitter.com/Ach_Balkrishna/status/1372057766206971909</a>
17.	04.05.2021	Tweet posted by defendant No. 3 which says that 'Coronil' is the first ayurvedic <i>evidence-based medicine</i> for COVID-19. (Tweet appended as Document No. 51 filed by the plaintiffs)	<a href="https://twitter.com/PypAyurved/status/1389439476309495808">https://twitter.com/PypAyurved/status/1389439476309495808</a>
18.	08.05.2021	Tweet posted by defendant No. 1 as well as accompanying video shown as televised on Astha TV Channel which records 'Coronil' as having <i>cured</i> a person of COVID-19. (Tweet as well as transcript of video appended as Document No. 53 filed by the plaintiffs)	<a href="https://twitter.com/yogrishiramdev/status/1390933311573291008">https://twitter.com/yogrishiramdev/status/1390933311573291008</a>
19.	10.05.2021	Tweet posted by defendant No. 1 as well as accompanying video shown as televised on Astha TV Channel recording that doctors who were taking 'Coronil' did not contract COVID-19. (Tweet as well as transcript of video appended as Document No. 54 filed by the plaintiffs)	<a href="https://twitter.com/yogrishiramdev/status/1391644928065687552">https://twitter.com/yogrishiramdev/status/1391644928065687552</a>



S. No.	Date	Document Reference	URL
20.	11.05.2021	Tweet posted by defendant No. 1 as well as accompanying video shown as televised on Astha TV Channel recording that a 06-month old girl was <i>cured</i> of COVID-19 with 'Coronil'. (Tweet as well as transcript of video appended as Document No. 55 filed by the plaintiffs)	<a href="https://twitter.com/yogrishiramdev/status/1392030465326862345">https://twitter.com/yogrishiramdev/status/1392030465326862345</a>
21.	11.05.2021	Tweet posted by defendant No. 1 as well as accompanying video shown as televised on Astha TV Channel records 'Coronil' as having <i>cured</i> a person of COVID-19. (Tweet as well as transcript of video appended as Document No. 56 filed by the plaintiffs)	<a href="https://twitter.com/yogrishiramdev/status/1392031678747484162">https://twitter.com/yogrishiramdev/status/1392031678747484162</a>
22.	22.05.2021	Video uploaded by on Mojo Story's YouTube Channel featuring defendant No. 1 on the <i>ills of allopathy</i> system of medicine. (Transcript of video is contained in Document No. 58 filed by the plaintiffs)	<a href="https://www.youtube.com/watch?v=5NQU5URaomw">https://www.youtube.com/watch?v=5NQU5URaomw</a>
23.	23.05.2021	Tweet posted by defendant No. 1 as well as accompanying video shown as televised on Astha TV Channel recording how three generations of a family were <i>saved</i> by the use of 'Coronil'. (Tweet as well as transcript of video appended as Document No. 61 filed by the plaintiffs)	<a href="https://twitter.com/yogrishiramdev/status/1396385372548984836">https://twitter.com/yogrishiramdev/status/1396385372548984836</a>



S. No.	Date	Document Reference	URL
24.	23.05.2021	Tweet posted by defendant No. 1 as well as accompanying video shown as televised on Astha TV Channel recording how certain persons were <i>cured</i> of COVID-19 in 5-6 days by use of 'Coronil'. (Tweet as well as transcript of video appended as Document No. 62 filed by the plaintiffs)	<a href="https://twitter.com/yogrishiramdev/status/1396403043130765315">https://twitter.com/yogrishiramdev/status/1396403043130765315</a>
25.	23.05.2021	Tweet posted by defendant No. 1 as well as accompanying video shown as televised on Astha TV Channel to record that a 75-year old <i>defeated</i> COVID-19 in 24 hours with the use of 'Coronil'. (Tweet as well as transcript of video appended as Document No. 63 filed by the plaintiffs)	<a href="https://twitter.com/yogrishiramdev/status/1396412087803416577">https://twitter.com/yogrishiramdev/status/1396412087803416577</a>
26.	24.05.2021	Video uploaded on Aaj Tak HD's YouTube Channel featuring defendant No. 1 denigrating allopathy as a system of medicine. (Transcript of video is contained in Document No. 66 filed by the plaintiffs)	<a href="https://www.youtube.com/watch?v=1ooQh1MMmgU&amp;t=3s&amp;ab_channel=AajTakHD">https://www.youtube.com/watch?v=1ooQh1MMmgU&amp;t=3s&amp;ab_channel=AajTakHD</a>
27.	24.05.2021	Facebook post uploaded by defendant No. 1 including a picture of a letter dated 24.05.2021 sent to Indian Medical Association asking questions about allopathy. (Copy of letter dated 24.05.2021 appended as Document No. 67 filed by the plaintiffs)	<a href="https://www.facebook.com/photo/?fbid=331269341693740&amp;set=a.284186866401988">https://www.facebook.com/photo/?fbid=331269341693740&amp;set=a.284186866401988</a>



S. No.	Date	Document Reference	URL
28.	24.05.2021	Tweet posted by defendant No. 1 including a picture of a letter dated 24.05.2021 sent to Indian Medical Association asking questions about allopathy. (Tweet as well as letter dated 24.05.2021 appended as Document No. 67 filed by the plaintiffs)	<a href="https://twitter.com/yogrishiramdev/status/1396809666529619974">https://twitter.com/yogrishiramdev/status/1396809666529619974</a>
29.	24.05.2021	Video showing defendant No. 1's allegations about allopathy. (Transcript of video is contained in Document No. 70 filed by the plaintiffs)	<a href="https://www.youtube.com/watch?v=a61dSw0FvNI">https://www.youtube.com/watch?v=a61dSw0FvNI</a>
30.	26.05.2021	Video uploaded by defendant No. 1 on allopathy. (Transcript of video is contained in Document No. 72 filed by the plaintiffs)	<a href="https://www.youtube.com/watch?v=JcDgqu7DV2I&amp;ab_channel=SwamiRamdev">https://www.youtube.com/watch?v=JcDgqu7DV2I&amp;ab_channel=SwamiRamdev</a>
31.	30.05.2021	Article published in The Hindustan Times quoting defendant No. 1's statements questioning the efficacy of allopathic vaccines. (Article has been appended as Document No. 73 filed by the plaintiffs)	<a href="https://www.hindustantimes.com/indianews/ramedevagainquestionscovid-19-vaccines-sayshe-protected-by-yogaayurveda-101622376819966.html">https://www.hindustantimes.com/indianews/ramedevagainquestionscovid-19-vaccines-sayshe-protected-by-yogaayurveda-101622376819966.html</a>
32.	31.05.2021	Video uploaded by CNN News-18's YouTube Channel on a debate on ayurveda vs. allopathy.	<a href="https://www.youtube.com/watch?v=Iz4mfCJ_6Gs">https://www.youtube.com/watch?v=Iz4mfCJ_6Gs</a>



		(Transcript of video is contained in Document No. 74 filed by the plaintiffs)	
33.	31.05.2021	Video uploaded by Dr. Vivek Bindra, Motivational Speaker, featuring defendant No. 1 in a debate concerning regulation of allopathy as a system of medicine by the Indian Medical Association. (Transcript of video is contained in Document No. 75 filed by the plaintiffs)	<a href="https://www.youtube.com/watch?v=9IGUiBnjY34&amp;ab_channel=Dr.VivekBindra%3AMotivationalSpeaker">https://www.youtube.com/watch?v=9IGUiBnjY34&amp;ab_channel=Dr.VivekBindra%3AMotivationalSpeaker</a>
34.	31.05.2021	Video uploaded on ABP-Live featuring defendant No.1 on allopathy. (Transcript of video is contained in Document No. 76 filed by the plaintiffs)	<a href="https://www.youtube.com/watch?v=Qk-Ey_96oHQ">https://www.youtube.com/watch?v=Qk-Ey_96oHQ</a>
35.	02.06.2021	Tweet posted by defendant No. 1 as well as accompanying video shown as televised on Astha TV Channel recording that 'Coronil' cured an 81-year old at home of COVID-19. (Tweet as well as transcript of video appended as Document No. 77 filed by the plaintiffs)	<a href="https://twitter.com/yogrishiramddev/status/1399960677746286592">https://twitter.com/yogrishiramddev/status/1399960677746286592</a>
36.	11.06.2021	Article published by The New Indian Express quoting defendant No. 1's statements on allopathy. (Article has been appended as Document No. 80 filed by the plaintiffs)	<a href="https://www.newindianexpress.com/nation/2021/Jun/11/doctor-s-are-gods-envoybaba-ramdev-backs-allopathy-for-emergency-treatment-2314481.html">https://www.newindianexpress.com/nation/2021/Jun/11/doctor-s-are-gods-envoybaba-ramdev-backs-allopathy-for-emergency-treatment-2314481.html</a>



S. No.	Date	Document Reference	URL
37.	N/A	Patanjali Research Institute website which represents 'Coronil' as <i>treatment</i> for COVID-19. (Screenshots of different parts of website appended as Document No. 83 filed by the plaintiffs)	N/A
38.	N/A	Patanjali Yog Peeth website referring to 'Coronil' for <i>prevention and treatment</i> of COVID-19. (Screenshots of portions of website appended as Document No. 86 filed by the plaintiffs)	N/A

12. Learned senior counsel has urged, that the offending statements made by the contesting defendants are *completely contrary to the regulatory licenses, approvals, mandates and directions* issued by the competent authorities, as is seen from the following run of events.
13. It is submitted that on 01.04.2020<sup>1</sup> the Ministry of Ayurveda, Yoga, Naturopathy, Unani, Siddha and Homeopathy ('AYUSH') had issued a statement proscribing dissemination of misinformation about AYUSH drugs, directing practitioners of alternate systems of medicine (which includes Ayurveda) from making misleading statements about any cure, medicine or treatment for COVID-19, in the following terms :

*"... ..it is hereby directed to all concerned ASU&H Regulatory Authorities in the States/Union Territories to stop and prevent publicity and advertisement of AYUSH-related claims for COVID-19 treatment in print, TV and electronic media and take*

<sup>1</sup> cf. Document No. 6 filed alongwith plaint



*necessary action against the persons/agencies involved in contravening the relevant legal provisions and the aforesaid guidelines of NDMA.”*

(emphasis supplied)

14. Furthermore, it is pointed-out that, on 07.04.2020<sup>2</sup> the Ministry of AYUSH had issued an advisory titled ‘Ayurveda’s immunity boosting measures for self-care during COVID 19 crisis’ clarifying that it cannot be claimed that the use of immunity boosting measures are a ‘treatment’ for COVID-19. The plaintiffs point-out that in fact defendant No. 2 is one of the signatories (at serial No. 8) to the said advisory that was issued by the Ministry.
15. It is argued that in the absence of any specific regulatory provisions for conducting medical trials for AYUSH drugs claiming to be possible treatment for COVID-19, the Ministry of AYUSH had also issued a notification dated 21.04.2020<sup>3</sup>, which laid down mandatory guidelines for scientists, researchers and clinicians of recognized systems of medicine to undertake scientific and clinical research on COVID-19 through AYUSH systems.
16. Learned senior counsel has submitted that being aware of the above position of the Ministry, in June 2020<sup>4</sup> the contesting defendants applied for a license to manufacture *Divya Coronil Tablet* as “... .. a *Rasayan (Immunity booster), specially against respiratory Tract Infection & all types of fever (Bacterial, Viral).*” Allowing that application, the State Licensing Officer, AYUSH, Uttarakhand (‘State


<sup>2</sup> cf. Document No. 7 filed alongwith plaint

<sup>3</sup> cf. Document No. 8 filed alongwith plaint

<sup>4</sup> cf. Document filed at serial No. 4 alongwith defendant No. 4’s written statement



Licensing Authority') had granted a license to the concerned defendant on 12.06.2020<sup>5</sup> to manufacture *Divya Coronil Tablet* (and two other medicines). It was on the basis of the license so granted that defendant No. 3 launched the said Tablet; but subsequently went on to make false and misleading statements regarding the medicinal efficacy of the same, falsely representing that the said Tablet was a *cure* for COVID-19. License dated 12.06.2020 received by the contesting defendants from the State Licensing Authority reads as follows :

प्रेषक,	लाइसेंसिंग अधिकारी, आयुर्वेदिक एवं यूनानी सेवाएँ, उत्तराखण्ड, देहरादून।						
सेवा में	मैसर्स दिव्य फार्मसी, प्लॉट नं० ए-01, औद्योगिक क्षेत्र हरिद्वार।						
संख्या-1373-74/डी-54/2020-2021	दिनांक 12 जून, 2020						
विषय- महोदय,	अतिरिक्त योगों के निर्माणार्थ अनुमति दिये जाने के सम्बन्ध में।						
	उपर्युक्त विषयक आपके पत्रों दिनांक 09.06.2020 एवं दिनांक 06.06.2020 के साथ प्राप्त अतिरिक्त औषधियों की सूची इस पत्र के साथ संलग्न करते हुए निवेदन है कि औषधि निबंधक/ लाइसेंसिंग अधिकारी, आयुर्वेदिक एवं यूनानी सेवाएँ उत्तराखण्ड, देहरादून द्वारा प्रेषित औषधि निर्माणार्थ लाइसेंस संख्या Ultra.Ayu-67/2005 में उल्लिखित शर्तों एवं प्रतिबन्धों के अधीन क्रमांक 01 से क्रमांक 03 पर अंकित स्थानभूत योगों को आयुर्वेदिक औषधि के रूप में निर्माण करने की अनुमति प्रदान की जाती है।						
	<table border="1"> <tr> <td>1- DIVYA CORONIL TABLET</td> <td>06.06.2020 के साथ प्राप्त अतिरिक्त</td> </tr> <tr> <td>2- DIVYA SWASARI VATI 540MG</td> <td>औषधियों की सूची इस पत्र के साथ संलग्न</td> </tr> <tr> <td>3- DIVYA SWASARI VATI 350MG</td> <td>करते हुए निवेदन है कि औषधि निबंधक/</td> </tr> </table>	1- DIVYA CORONIL TABLET	06.06.2020 के साथ प्राप्त अतिरिक्त	2- DIVYA SWASARI VATI 540MG	औषधियों की सूची इस पत्र के साथ संलग्न	3- DIVYA SWASARI VATI 350MG	करते हुए निवेदन है कि औषधि निबंधक/
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	<p>भवदीय            (डॉ० यशेन्द्र सिंह रावत)          लाइसेंसिंग अधिकारी ✓</p>						
	<p>(डॉ० यशेन्द्र सिंह रावत)          लाइसेंसिंग अधिकारी</p>						

(extracted from the record)

<sup>5</sup> cf. Document No. 9 filed alongwith plaint





17. Mr Sibal has submitted, that after procuring the license for the said Tablet, which was certified for use *only* as aforesaid and was meant as an immunity booster, defendant No. 1 launched the said Tablet and started making public statements claiming the said Tablet to be a cure and treatment for COVID-19, which statements were widely reported.
18. By reason of the aforesaid actions on the part of the contesting defendants, the Ministry of AYUSH hastened to issue a public statement on 23.06.2020<sup>6</sup>, clarifying that the Ministry was unaware of the development of any ayurvedic medicine for the treatment of COVID-19 by defendant No. 3; and called upon the said defendant to share the details of the medicine claimed to have been developed by them. The relevant extract of public statement dated 23.06.2020 issued by the Ministry reads as under :

*“Ministry of AYUSH has taken cognizance of the news being recently flashed in the media about Ayurvedic medicines developed for treatment of COVID-19 by Patanjali Ayurved Ltd, Haridwar (Uttarakhand). Facts of the claim and details of the stated scientific study are not known to the Ministry.”*

(emphasis supplied)

19. Learned senior counsel has argued, that after obtaining the requisite information from defendant No. 3, *vide* its letter dated 30.06.2020<sup>7</sup> the Ministry *cautioned* defendant No. 3, emphasising that the license issued by the State Licensing Authority is *only* for *Divya Coronil Tablet* being used as an immunity booster and that there should be “... .. *no claim for cure of COVID-19* ... ..” in relation to the said

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<sup>6</sup> cf. Document No. 12 filed alongwith plaint

<sup>7</sup> cf. Document filed at serial No. 5 alongwith defendant No. 4’s written statement



Tablet. Furthermore, the Central Drugs Standard Control Organisation (‘CDSCO’), which operates under the Directorate General of Health Services (‘DGHS’), Ministry of Health & Family Welfare of the Government of India, had also clarified that it had *not issued* any certificate/permission for the use of the said Tablet as treatment of COVID-19. This is seen from communication dated 12.03.2021<sup>8</sup> issued by the CDSCO, the relevant portion whereof has been extracted later in the judgment.

20. It has been submitted that sometime in or about January 2021, defendant No. 5 made a specific application to the Ministry of AYUSH seeking to *update the license* for the said Tablet from an immunity booster to a medicine for COVID-19, which request was however *not granted* by the Ministry *vide* its letter dated 07.01.2021<sup>9</sup>, in which letter the Ministry made the following observations :

“... ...Committee appraised and observed that the core ingredients like Tulsi, Ashvagandha are included in the National Clinical Protocol for COVID-19 and also based on this rational and inference of their presentation, it is suggested **that it may be used as supporting measure in COVID-19.**”

(emphasis supplied)

21. Senior counsel has submitted, that *vide* license dated 05.02.2021<sup>10</sup>, the State Licensing Authority had also confirmed that the tablet may be used (only) as a supporting measure for COVID-19 and not as a medicine, treatment or cure for COVID-19.

<sup>8</sup> cf. Document No. 43 filed alongwith plaint

<sup>9</sup> cf. Document No. 16 filed alongwith plaint

<sup>10</sup> cf. Document No. 7 filed along with application bearing I.A No. 13600/2022 which was allowed *vide* order dated 14.02.2024 allowing plaintiffs to bring on record additional documents



22. Based on the above documents, learned senior counsel has argued that the tablet was never licensed by any competent authority for use as *medicine, treatment or cure* for COVID-19; and all representations made by the contesting defendants to the contrary are without any basis, apart from being completely untrue on point of fact, and false to the knowledge of the contesting defendants.
23. In fact, Mr. Sibal has argued that the misrepresentations made by the contesting defendants constitute a punishable offence, being in clear violation of section 4 of the Drugs and Magic Remedies (Objectionable Advertisement) Act 1954, punishable under section 7 thereof.
24. To answer a query raised in the course of the proceedings, learned senior counsel appearing for the plaintiffs has also clarified that the offending statements set-out in the Schedule-A to the plaint and in the documents filed therewith, are only illustrative and not exhaustive; and that the contesting defendants should be directed to take-down *all* misrepresentations and false statements made by them suggesting that the said Tablet is a medicine, treatment or cure for COVID-19 from all media-platforms, including electronic and social-media, even though all such statements may not have been set-out in Schedule-A or in the documents filed by the plaintiffs. In this regard, attention of the court has been drawn to the principal prayers made in the plaint, submitting that since the present suit has been filed under section 91 CPC, seeking redressal against public nuisance and other wrongful acts affecting the public at large, the claim made in the suit should not be read in a restrictive manner. It is further pointed-out, that in any



case, the prayers made in the plaint also seek relief against any other statement that are similar to the impugned statements :

“(i) Decree of permanent injunction restraining the Defendant No.1 or his associates or agents or employees or officers or partners either directly or indirectly or through any entity from further distributing, transmitting, publishing/re-publishing or releasing in any manner to the public either through print, electronic or internet media or otherwise to the public any of the **impugned statements referred to in Schedule-A**, which continue to be available for access to the public at the URLs mentioned therein, **or any other similar statements**; and

(ii) Decree of mandatory injunction against Defendants to remove/take down all the active URLs/videos pertaining to the impugned statements made by Defendant No. 1 or is associates or agents or employees or officers or partners; and

(iii) \* \* \* \* \*

(iv) \* \* \* \* \*

(emphasis supplied)

25. In the same context, it has also been urged on behalf of the plaintiffs that in a suit filed in public interest under section 91 CPC, the date on which the cause of action has last arisen, as stated in the plaint viz. 08.05.2021<sup>11</sup>, should not be read in a technical manner to deny effective relief in relation to offending statements brought on record, even if these pertain to a period *after* the date on which the cause of action first arose, as recited in the plaint.

### **CONTESTING DEFENDANTS’ SUBMISSIONS**

26. Refuting the submissions made on behalf of the plaintiffs, Mr. Alag, learned senior counsel appearing for the contesting defendants has

<sup>11</sup> cf. para 45 of plaint



argued *firstly*, that the scope of the present suit must be limited and restricted to the statements cited in the plaint and that furthermore, the plaint suffers from certain procedural and substantive infirmities which completely bars this court from granting any relief. *Secondly*, learned senior counsel for the contesting defendants has submitted that the prayers in the application do not pass the well settled tests required for grant of interim relief. *Thirdly*, he has argued, that the said Tablet has all the required certification and licenses, which were the basis of the statements made by the contesting defendants, which statements have been needlessly impugned by way of the suit. *Fourthly*, Mr. Alag has also submitted that the present proceedings are identical to other on-going proceedings before other authorities and forums, for which reason also, this court ought not to proceed with the present matter.

27. Learned senior counsel has argued that the scope of the suit, and therefore of the present application, must be limited to what is alleged to have transpired *before* the alleged cause of action last arose *as stated in para 45 of the plaint i.e. 08.05.2021*; and that the court cannot travel beyond the pleadings to grant relief. In support of this contention, senior counsel has relied upon the decision of the Supreme Court in *Ranbir Singh vs. Executive Engineer*<sup>12</sup> and *State of Uttarakhand & Anr. vs. Mandir Sri Laxman Sidh Maharaj*<sup>13</sup>. It is his contention therefore, that the plaintiffs' case must be restricted to

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<sup>12</sup> (2011) 15 SCC 453 at para 6

<sup>13</sup> (2017) 9 SCC 579 at para 24



the statements set-out in Schedule-A to the plaint and they cannot claim any directions in relation to any other statement made by the contesting defendants after that date. Furthermore, the contesting defendants have emphasised that, as per the assertions in the plaint, the cause of action for filing the suit last arose on 08.05.2021,<sup>14</sup> which necessarily bars this court from considering all documents in Schedule-A or otherwise which are subsequent to the said date.

28. While traversing the plaint, learned senior counsel appearing for the contesting defendants has pointed-out the following alleged procedural and substantive infirmities in the plaintiffs' case :

28.1. That no document has been produced on record with respect to the constitution of plaintiff No.1 association; and no document indicating the relationship of the other individual plaintiffs to the association has been shown. Thus, the preliminary objection raised is that the plaintiffs have not proved the identity of plaintiff No. 1 association; and the suit is therefore not maintainable.

28.2. That the plaintiffs cannot claim injunction against persons who are not parties to the present suit. In this regard, the contesting defendants have argued that the plaintiffs have impugned certain narratives and accounts given by third-parties in relation to the use of the said Tablet, and that the plaintiffs have impugned what third-parties have said during TV debates and interviews hosted by other third-parties. The objection

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<sup>14</sup> cf. para 45 of the plaint



accordingly is that the plaintiffs cannot claim relief of injunction against such third-parties, who have not been made parties to the present suit. Learned senior counsel has pointed-out that an application bearing I.A. No. 13602/2022 filed by defendant No.3, seeking impleadment of certain third-parties is still pending consideration before this court. Reliance in this regard has been placed on various judgments of the Supreme Court and of various High Courts<sup>15</sup>.

28.3. That the prayers in the plaint as well as in the present application are identical; and therefore the plaintiffs cannot be granted interim relief in the present application, since that would in effect amount to granting final relief in the suit. It has been argued that it is the well settled position of law that no interim relief should be granted of that would amount to granting final relief, without adjudicating upon the issues by going through trial.<sup>16</sup>

28.4. That the plaintiffs' case does not meet the well-settled triple-test for grant of interim injunction.<sup>17</sup> Learned senior counsel has attempted to substantiate this submission by arguing that the plaintiffs have not made-out any *prima-facie* case to show that the administration of the said Tablet has caused any

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<sup>15</sup> *Sasikala Pushpa vs. Facebook India & Ors.*, (2020) SCC OnLine Del 618; *Acqua Borewell Pvt. Ltd. vs. Swayam Prabha & Ors.*, (2022) 15 SCC 511 at paras 7 & 8; *Ratnagiri Nagar Parishad vs. Gangaram Narayan Ambekar & Ors.*, (2020) 7 SCC 275; *Kuldip Singh vs. Subhash Chander Jain & Ors.*, (2000) 4 SCC 50; *West Bengal Housing Board vs. Pramila Sanfui & Ors.* (2016) 1 SCC 743; *K.P.M. Aboobuckeh vs. K. Kunhamoo*, 1957 SCC OnLine Mad 349

<sup>16</sup> *Union of India vs. Modiluft Ltd.*, (2003) 6 SCC 65 at para 16 & 17; *Pradip Daulatrao vs. Union of India*, (2014) SCC OnLine Bom 3799

<sup>17</sup> *Dalpat Kumar & Anr. vs Prahlad Singh & Ors.*, (1992) SCC 719 at para 6



detriment or harm to any individual. On the contrary, it is the contesting defendants' contention, that it is allopathic vaccines that have shown to result in severe side-effects and fatalities. Learned senior counsel has also argued that the plaintiffs have failed to establish their case by adducing any positive proof; and that an interim injunction cannot be granted on mere speculation<sup>18</sup>. It has also been urged that the plaintiffs have not brought on record any material to show that any public nuisance has been caused by administration of the said Tablet.

28.5. That the right of the contesting defendants to make statements and express their opinions and ideas should not be curbed based on some anticipated danger which is remote, conjectural or far-fetched<sup>19</sup>, since that would result in placing restrictions on a fundamental right<sup>20</sup>. In this regard, reliance has been placed upon the decision of a Co-ordinate Bench of this court in *Tata Sons Limited vs. Greenpeace International & Anr.*,<sup>21</sup> to emphasise that by granting interim injunction, the court should not freeze public debate on a matter.

29. Mr. Alag has argued that, in fact on the other hand, the contesting defendants had obtained all requisite licenses and accreditations with respect to the said Tablet, and were therefore entitled to make the

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<sup>18</sup> *State of Karnataka vs. State of A.P.*, (2000) 9 SCC 572 at para 67; *Pharmasivam vs. T.N. Electricity Board*, (1999) SCC OnLine Mad 623 at para 7

<sup>19</sup> *S. Rangarajan vs. P. Jagjivan Ram & Ors.*, (1989) 2 SCC 574

<sup>20</sup> *Khushwant Singh vs. Maneka Gandhi*, (2001) SCC OnLine Del1030 and *Sushil Ansal vs. Endemol India*, (2023) SCC OnLine Del 121

<sup>21</sup> (2011) SCC OnLine Del 466 at para 43





statements and representations that the plaintiffs have impugned by way of the suit. In this regard, Mr. Alag explains as follows :

29.1. That *vide* it's Advisory dated 06.03.2020<sup>22</sup> and Notification dated 02.04.2020<sup>23</sup> the Ministry of AYUSH had emphasised the importance of Ayurveda as a mechanism for boosting immunity and its efficacy with regard to stop progression of COVID-19. *Vide* Notification dated 02.04.2020 the Ministry had also indicated that State Licensing Authorities were to expedite the grant of licenses to AYUSH medicine manufacturers. In this regard, the attention of the court was drawn to the Guidelines dated 21.04.2020<sup>24</sup> issued by the Ministry of AYUSH as regards the conditions for conducting clinical trials.

29.2. That after duly carrying-out clinical trials at the Department of Medicine at the National Institute of Medical Sciences and Research, Jaipur, and as per the Ministry's mandate, defendant No. 4 was granted the requisite permission from the concerned licensing authority to manufacture the said Tablet as an immunity booster, *which is to be read as being a combatant of respiratory tract infection* and all types of bacterial and viral fevers. Senior counsel has emphasized that the use of the tablet as an immunity booster *must be understood in terms of how Ayurveda functions as a system of medicine.*

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<sup>22</sup> cf. Document filed at serial No. 1 alongwith defendant No. 4's written statement

<sup>23</sup> cf. Document filed at serial No. 2 alongwith defendant No. 4's written statement

<sup>24</sup> cf. Document filed at serial No. 3 alongwith defendant No. 4's written statement



- 29.3. That the said Tablet was launched by defendant No. 3 after obtaining a license from the State Licensing Authority; and thereafter, upon being called upon by the Ministry of AYUSH the contesting defendants also duly provided details of the said Tablet to the Ministry; whereupon *vide* letter dated 30.06.2020<sup>25</sup> the Ministry has also confirmed that necessary actions had been initiated by defendant No. 3 to ensure that the said Tablet is used for management of COVID-19.
- 29.4. That thereafter, further research was conducted by the contesting defendants so as to fulfil the conditions set-down by the Ministry to prove the effectiveness of the said Tablet, which research showed that ayurvedic treatment had proved to be effective in preventing disease progression with long-term benefits.<sup>26</sup>
- 29.5. That additionally, the CDSCO, DGHS has also issued a certificate dated 05.11.2020<sup>27</sup> (valid upto 01.09.2022) certifying the said Tablet as a pharmaceutical product, which is permitted to be exported to 158 countries.
- 29.6. That the said Tablet has received the requisite accreditations and licenses to be used in aid of COVID-19. In fact, the license of the said Tablet has been *updated* to ‘immunity booster’ by the Ministry of AYUSH as per the Interdisciplinary Technical

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<sup>25</sup> cf. Document filed at serial No. 5 alongwith defendant No. 4’s written statement

<sup>26</sup> cf. Documents filed at serial Nos. 1 to 10 alongwith defendant No.3’s written statement

<sup>27</sup> cf. Document No. 4 filed along with application bearing I.A No. 13600/2022 seeking to bring on record additional documents which was allowed *vide* order dated 14.02.2024



Review Committee's ('ITRC') recommendation given *vide* letter dated 07.01.2021<sup>28</sup>; and as a 'supporting measure' for COVID-19 as evidenced by letter dated 05.02.2021<sup>29</sup> issued by the State Licensing Authority, affirming letter dated 07.01.2021.

29.7. That to further show official accreditation of the said Tablet, learned senior counsel for the contesting defendants has made reference to an answer given by the Minister of AYUSH to an Unstarred Question No. 1582 posed in the Lok Sabha on 10.02.2023, in response to which question, the Minister has said that the ITRC constituted in relation to COVID-19 *vide* notification dated 28.10.2020 has suggested and recommended the said Tablet for "*prevention and management of COVID-19*". It has been argued that the emphasis placed by the plaintiffs upon the answer of the CDSCO, DGHS stating that the said licensing authority has not granted any permission/certificate for the use of the said Tablet for the treatment of COVID-19,<sup>30</sup> does not carry weight in view of the answer given by the Minister of AYUSH in Parliament on 10.02.2023.<sup>31</sup> To bolster their submission, the contesting defendants have placed reliance on section 57(4) read with section 56 of the Indian Evidence Act 1872, to submit that that

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<sup>28</sup> cf. Document No. 16 filed alongwith plaint

<sup>29</sup> cf. Document No. 7 filed along with application bearing I.A No. 13600/2022 seeking to bring on record additional documents, which was allowed *vide* order dated 14.02.2024

<sup>30</sup> cf. Document No. 43 filed alongwith plaint

<sup>31</sup> cf. Annexure A filed by defendant No. 3 alongwith Compliance Affidavit dated 24.05.2024



the court is bound to take judicial notice of Parliamentary proceedings.

30. In light of the above, learned senior counsel for the contesting defendants has submitted that the medicinal efficacy of the said Tablet has to be appreciated in terms of how Ayurveda works as a system of medicine; and furthermore, requisite licenses have been granted to the said Tablet after duly conducting clinical trials, research and studies. Mr. Alag has argued that the only test of efficacy of a medicine is its ‘therapeutic efficacy’,<sup>32</sup> and besides, no opinion can be expressed on the efficacy of the said Tablet at this stage while deciding the present interim application.
31. Mr. Alag has re-emphasised, that without prejudice to their other rights and contentions, the scope of the present proceedings is the same as that of the petition pending before the Supreme Court as well as orders made by other High Courts, in which the reliefs claimed by the plaintiffs have already been addressed. In this regard, learned senior counsel refers to the following proceedings :
- 31.1. Proceedings before the Supreme Court in W.P. (C) No. 645/2022 titled *Indian Medical Association & Anr. vs. Union of India*, the issues pending in which, according to the contesting defendants, are identical to issues arising in the present suit.<sup>33</sup>
- 31.2. Proceedings before the High Court of Uttarakhand and the Rajasthan High Court in W.P. (PIL) No. 108/2020 and CWP

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<sup>32</sup> *Novartis AG vs. Union of India & Ors.*, (2013) 6 SCC 1 at paras 157 & 158

<sup>33</sup> cf. Document filed at serial No. 1 in compliance of order dated 02.05.2024



(PIL) No. 6616/2020 respectively, in which the petitioners had sought a ban on selling of the said Tablet in the respective States; and according to the contesting defendants, the subject matter of the present suit has already been adjudicated in those cases, which petitions were dismissed *vide* orders dated 07.08.2020<sup>34</sup> and 07.01.2021<sup>35</sup> respectively.

31.3. Proceedings in suit CS(OS) No. 269/2021 titled *Delhi Medical Association vs. Ram Kishan Yadav & Ors.* filed before the Delhi High Court by the Delhi Medical Association prior to the present suit, which was withdrawn *vide* order dated 28.05.2024; and, according to the contesting defendants that suit was based on the same premise as the present suit; and some of the documents relied upon in the said suit are the same as those referred to by the plaintiffs in the present proceedings.

### DISCUSSION

32. To begin with, this court must deal with the preliminary objections and infirmities cited by the contesting defendants in opposition to the present application.

32.1. This court must clarify that the present judgment only disposes of the application filed by the plaintiffs under Order XXXIX Rules 1 & 2 CPC seeking interim relief. By reason of the nature of the suit, this application has come to be considered after

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<sup>34</sup> cf. Document filed at serial No. 7 alongwith defendant No. 4's written statement

<sup>35</sup> cf. Document filed at serial No. 8 alongwith defendant No. 4's written statement



leave has already been granted to the plaintiffs to institute the suit under section 91 of the CPC.

32.2. Once leave has already been granted to the plaintiffs to institute the suit under section 91 CPC, which order has not been challenged by the contesting defendants, the objection raised by them as regards the identity of plaintiff No.1 association cannot stand in the way of considering the present application at this stage.

32.3. The contesting defendants have also raised another preliminary objection to the effect that only statements made by them *prior to 08.05.2021* can be made subject-matter of the present application, since that is the date cited by the plaintiffs in para 45 of the plaint on which the cause of action for the suit is stated to have last arisen. The contesting defendants say that by filing documents relating to a period *subsequent* to 08.05.2021, the plaintiffs are seeking to enlarge the scope of the suit, which is impermissible. To answer this objection, for one, the present suit was filed on 14.07.2021, and though the plaintiffs have recited in the plaint that their cause of action last arose on 08.05.2021, at the time of the filing of the plaint itself the plaintiffs had filed certain documents relating to the period after 08.05.2021 and to June 2021, citing such documents as instances of the wrongful acts on the part of the contesting defendants. In the opinion of this court, in a suit under section 91 of the CPC, the court is bound to consider the essence and substance of the public nuisance or the wrongful acts



complained-of, which are affecting, or are likely to affect, the public-at-large. As a result, it would be unjust to exclude from consideration the documents relating to the period May 2021 and June 2021, *all of which have been filed along with the plaint in July 2021*, even though technically the plaintiffs have stated in para 45 of the plaint that the cause of action last arose on 08.05.2021.

32.4. Insofar as the objection raised by the contesting defendants that the plaintiffs are seeking injunction against third-parties, who are not before this court, that objection also holds no water, inasmuch as the plaintiffs are praying for *restraining the contesting defendants* from canvassing the said Tablet as a treatment, medicine or cure for COVID-19; and one or more of the contesting defendants *are party* to the material placed on record in respect to which the plaintiffs are claiming relief. The purported interviews and statements of third parties, which are subject-matter of the impugned material, have also been made and publicized in the presence and/or at the instance of the contesting defendants.

32.5. Furthermore, in response to the objection raised on behalf of the contesting defendants that allowing the prayer in the present application would amount to granting the final relief at the interim stage, this court would only observe that if interim relief is made-out on a *prima-facie* appreciation of the material on record; and if interim relief is warranted upon considering the balance of convenience and the irreparable harm that may



result by denying relief, the court would be well within its powers to grant such interim relief.

32.6. As for the argument raised by the contesting defendants that the plaintiffs have not placed on record any *positive proof that public nuisance* has been caused by the impugned material, suffice it to say that the plaintiffs have brought on record material that plainly shows that the contesting defendants are advertising and promoting the said Tablet as a treatment, medicine or cure for COVID-19, despite a specific direction by the Ministry of AYUSH asking the contesting defendants not to do so. The Ministry's direction, in and of itself, is sufficient for this court to infer that the actions of the contesting defendants are causing, or have serious potential to cause, public nuisance. There is accordingly sufficient material on record to impel this court to issue an interim order restraining the contesting defendants from doing so, without waiting for what the contesting defendants call 'positive proof' of the public nuisance. It is important to note that section 91 CPC permits filing of an injunction suit restraining any public nuisance or other wrongful act that is *affecting or is likely to affect* the public; and therefore it would be anathema to the law for this court to wait for *proof of public nuisance* before passing restraint orders.

32.7. To address the contesting defendants' contention that this court must forebear from entertaining the present suit since there are connected proceedings pending before the Supreme Court as





well as before this court, it is the considered view of this court, that those proceedings do not relate specifically to the said Tablet; and though there may be some overlap on wider aspects that are in *seisin* of the Supreme Court, *vide* orders dated 21.11.2023, the Supreme Court has already observed that the pendency of the proceedings before it would not prevent other courts from proceeding with the suits pending before those courts.

33. Since this judgment will only decide the present application under Order XXXIX Rules 1 and 2 of the CPC, this court is conscious that it must restrict itself to whether the plaintiffs have succeeded in making-out a *prima-facie* case in support of their contentions; and whether the grant of an interim injunction is made-out, considering where the balance of convenience lies and whether any irreparable harm or injury would arise, as contended by the plaintiffs.
34. The short question to be considered by this court therefore is, whether the contesting defendants have been remiss in making the statements and representations to the public at large which have misled, or which have had the tendency to mislead the public-at-large about the purpose and efficacy of the said Tablet manufactured, marketed and sold by the contesting defendants.
35. It goes without saying that the only basis on which this court can form a *prima-facie* view in the matter are the licenses issued and certifications granted to the contesting defendants by the competent authorities for the manufacture and marketing of the said Tablet.



36. In fact, it would appear that it is not even the case of the contesting defendants, that they have made any statements or representations that are contrary to what they were entitled to make in terms of the licenses and certifications they hold for manufacturing, marketing and use of the said Tablet.
37. But is that so ?

**Certifications/Licenses held by contesting defendants**

38. The record shows that by way of an application dated 09.06.2020 made by the contesting defendants, they applied for permission to manufacture the said Tablet as a new ayurvedic proprietary product to the Licensing Authority, setting-out the ingredients and other particulars required for purposes of the application. In response to this application, *vide* a communication dated 12.06.2020, the Licensing Authority granted to the contesting defendants permission to manufacture the said Tablet.
39. Thereafter, *vide* its communication dated 16.12.2020, the Central Council for Research in Ayurvedic Sciences, New Delhi, informed the contesting defendants that they were required to make a power-point presentation in relation to the latter's application, seeking to update the license for the said Tablet from "*IMMUNITY BOOSTER*" to "*Medicine for COVID-19*". By the said communication, the contesting defendants were called-upon to make a presentation before the ITRC explaining the following :

*“Objectives, Rationale behind the selection of proposed drug, Details of composition, pre-clinical Safety/toxicity/efficacy studies and Clinical data and other related aspects.”*



40. Thereupon, *vide* a communication dated 07.01.2021, the Ministry of AYUSH informed the contesting defendants as follows :

***“Subject: Application entitled, ‘Updating the Ayush License for CORONIL Tablet from IMMUNITY BOOSTER to Medicine for COVID-19’***

*Sir,*

*I am directed to refer to your above mentioned proposal and to inform that the proposal was placed before the interdisciplinary technical review committee under the Chairmanship of Dr. SK Maulik, Former Professor, Department of Pharmacology, AIIMS on 17 & 18.12.2021 and the following observations have been made-*

1. *Administration of only placebo (without standard care) in one group raises ethical concerns.*

2. *Group wise analysis has not been presented.*

*Committee appraised and observed that the core ingredients like Tulsi, Ashvagandha are included in the National Clinical Protocol for COVID-19 and also **based on this rational (sic) and inference of their presentation, it is suggested that it may be used as supporting measure in COVID-19.***

(emphasis supplied)

41. This was followed by a communication dated 05.02.2021, by which, while granting/extending the permission to the contesting defendants to manufacture the said Tablet, the Licensing Authority specified that insofar as the said Tablet is concerned, *its use was to be in terms of letter dated 07.01.2021 issued by the Ministry of AYUSH*, which was a reference to the afore-cited communication, by which the Ministry had restricted the use of the said Tablet as a “... *...supporting measure in COVID-19... ..*”.
42. To paraphrase, this restriction was based on the fact that the contesting defendants had administered only placebos to a group of



persons without taking standard care for testing the said Tablet, which according to the Ministry was a matter that raised ethical concerns; and furthermore a group-wise analysis of the testing had not been presented to the Ministry. However, the Ministry had observed that since the core ingredients of the said Tablet were *tulsi* and *ashvagandha*, which were included in the National Clinical Protocol for COVID-19, it was permissible to use the said Tablet but only as a supporting measure for COVID-19.

43. Accordingly, as per the license/certification held by the contesting defendants, the said Tablet was licensed for use only as an immunity booster, which could also help as a supporting measure in the management of COVID-19. To be sure however, the application made by the contesting defendants for *updating* their licenses for the said Tablet from “*IMMUNITY BOOSTER*” to “*Medicine for COVID-19*” was never approved; and after a detailed assessment based on the presentation made by the contesting defendants before the ITRC, the updation application was disallowed.

#### **Communication/Advisory received from Ministry**

44. By way of a general notification dated 21.04.2020 issued by the Ministry of AYUSH, they had clarified that at the relevant time there was *no approved treatment for COVID-19 infection*; and that though Indian traditional medicines had the potential for use in conditions such as COVID-19, at the same time it was essential to have scientific evidence on the use of traditional medicine for prevention/management of COVID-19. By way of the said notification, the Ministry went on to say, that since there was no



specific regulatory provision in the Drugs and Cosmetics Rules, 1945 for conducting clinical trials on Indian traditional medicines, scientists, researchers and clinicians “... ..of any recognised system of medicine... ..” could undertake research on COVID-19 through Ayurvedic, Sidha, Unani and Homeopathy systems to generate such evidence. The Ministry had also laid-down certain conditions that were to be complied-with for undertaking such research.

45. Since the contesting defendants were representing in the media that they had developed Ayurvedic medicines for the treatment of COVID-19, by a press statement issued on 23.06.2020, the Ministry for AYUSH said this :

*“Ministry of AYUSH has taken cognizance of the news being recently flashed in the media about Ayurvedic medicines developed for treatment of COVID-19 by Patanjali Ayurved Ltd, Haridwar (Uttarakhand). Facts of the claim and details of the stated scientific study are not known to the Ministry.*

*In order to make this Ministry aware of the facts of the aforesaid news and verify the claims, Patanjali Ayurved Ltd has been asked to provide at the earliest details of the name and composition of the medicines being claimed for COVID treatment; site(s)/hospital(s), where the research study was conducted for COVID-19; protocol, sample size, Institutional Ethics Committee clearance, CTRI registration and results data of the study (ies) **and stop advertising/publicizing such claims till the issue is duly examined.** Ministry has also requested concerned State Licensing Authority of Uttarakhand Government to provide copies of license and product approval details of the Ayurvedic medicines being claimed for the treatment of COVID-19.”*

(emphasis supplied)

46. Yet again, by its communication dated 30.06.2020 issued by the Ministry of AYUSH to the Licensing Authority, referring to their



earlier communication dated 23.06.2020, the Ministry cautioned the Licensing Authority about the contesting defendants marketing the said Tablet as a cure for COVID-19 in the following terms:

*“It is observed that M/s Divya Pharmacy, Patanjali Research Foundation Trust, Haridwar has initiated necessary activities for the management of COVID-19 appropriately which is duly noted. It is further directed that the proposed 3 drugs namely **“Divya Coronil Tablet, Divya ShwashariVati 540MG and Divya ShwashariVati 350 MG”** **should be marketed in accordance with the scope of license issued by the State Licensing Authority, Ayurvedic and Unani Services, Uttarakhand, Dehradun. It may be ensured that on the package and label displayed on the medicines, no claim for the cure of COVID-19 should be mentioned.** The advertisement and the publicity of the drugs should be ensured in accordance with the relevant provisions of the Drugs and Magic Remedies (Objectionable Advertisements) Act 1954. The relevant provisions of Drugs and Cosmetics Act, 1940 should also be duly followed. Patanjali Research Foundation Trust, Haridwar may continue the Clinical Trials by duly following the provisions mentioned in Ministry of AYUSH Gazetted Notification no. L.11011/8/2020/AS dated 21<sup>st</sup> April, 2020.”*

(emphasis supplied)

47. If any doubt remains, in response to a Right to Information (‘RTI’) application dated 23.02.2021 filed by one of the members of plaintiff No.1 association raising a query about the permitted use of the said Tablet, *vide* their reply dated 12.03.2021 the CDSCO, DGHS, Government of India, specifically confirmed as follows:

*“Point No. 01 to 03:*

*Ayurvedic drugs are regulated under the provisions of Drugs & Cosmetics Act, 1940 and Rules, 1945. License for manufacture for sale of Ayurvedic drugs is granted by respective State Licensing Authorities appointed by respective State Governments under Rule 152 of Drugs & Cosmetics Rules, 1945.*



Hence applicant may approach to concerned SLA for requisite information.

*This office has not issued any certificate/permission for the use of ‘Coronil’ in treatment of COVID-19. However, as per the WHO certification scheme, which is a scheme of Certification of Pharmaceutical Product (COPP) by National Regulatory Authority (NRA) for the purpose of international commerce i.e. for registration of products in foreign countries, CDSCO has issued Certification of Pharmaceutical Product (COPP) to M/s Divya Pharmacy Unit (II), Haridwar for their product Divya Coronil Tablet, after examination of their application in consultation with Ministry of AYUSH.”*

(emphasis supplied)

48. From the communications issued by the Ministry to, and in relation to, the contesting defendants, it is clear that the Ministry had repeatedly advised and cautioned the contesting defendants to stop advertising or publicising the said Tablet as a *treatment* for COVID-19; while also informing the Licensing Authority that the said Tablet should be marketed only in accordance with the license issued by them; and that it should be ensured that no claim was made on the package and the label, claiming that the said Tablet was a cure for COVID-19.

#### **Statements made by the Contesting Defendants**

49. Despite the position as to licensing and certification being as referred to above, in the statements and representations made by the contesting defendants, formally by way of advertisements or otherwise on the social-media and by way of press conferences and interviews, the contesting defendants persisted in representing the said Tablet as ‘medicine or treatment or cure’ for COVID-19. The most egregious



instances of such misrepresentations, carved-out from the tabulated summary appearing above are :







**Patanjali Dairy** @PatanjaliDairy

Amidst the global struggle to make Covid-19 vaccine, Patanjali Research Institute has accomplished to bring the first evidence based corona medicine through India's ancient medical system Ayurveda.

[#Patanjalis\\_EvidenceBased\\_Medicine4Corona](#) [#PatanjaliCoronil](#)



10:21 AM · Feb 19, 2021 · Twitter Web App

25 Likes 28 Retweets 3 Replies

**Patanjali Ayurved** @PypAyurved

Under the guidance of Puja Swami Ji & Puja Acharya Ji & with the hard work of scientists at Patanjali Research Institute, this research to create the world free from this corona pandemic has been successful.

[#Patanjalis\\_EvidenceBased\\_Medicine4Corona](#) [#PatanjaliCoronil](#)



10:26 AM · Feb 19, 2021 · Twitter Web App

395 Likes 180 Retweets 15 Replies

**Patanjali Dairy** @PatanjaliDairy

दवा के मुख्य घटक अश्वगंधा, गिलोय, तुलसी, श्वसारि रस और अणु तेल होंगे। इनका मिश्रण और अनुपात शोध के अनुसार तय किया गया है, जिससे ये कोरोना वायरस के प्रभाव को पुख्ता तरीके से खत्म कर देता है।

[#Patanjalis\\_EvidenceBased\\_Medicine4Corona](#) [#PatanjaliCoronil](#)

10:28 AM · Feb 19, 2021 · Twitter Web App

71 Likes 41 Retweets 3 Replies

**Patanjali Ayurved** @PypAyurved

पतंजलि की कोरोनिल टैबलेट से अब कोविड का इलाज होगा. आयुष मंत्रालय ने कोरोनिल टैबलेट को कोरोना की दवा के तौर पर स्वीकार कर लिया है.

[#Patanjalis\\_EvidenceBased\\_Medicine4Corona](#) [#PatanjaliCoronil](#)



10:41 AM · Feb 19, 2021 · Twitter Web App

160 Likes 90 Retweets 10 Replies



**Patanjali Dairy** @PatanjaliDairy

Now the whole world is accepting the fact that Patanjali's Ayurvedic medicine Coronil can cure Corona virus  
[#Patanjalis\\_EvidenceBased\\_Medicine4Corona](#)  
[#PatanjaliCoronil](#)

[#Patanjalis\\_EvidenceBased\\_Medicine4Corona](#)

10:56 AM · Feb 19, 2021 · Twitter Web App

36 Likes 31 Retweets 1 Reply

**Patanjali Dairy** @PatanjaliDairy

पतंजलि ने कोरोना से लड़ने, उसे फैलने और ठीक करने के लिए आवश्यक जड़ी-बूटियों को प्रोसेस करने के बाद ट्रायल किया गया। सैकड़ों कोरोना पॉजिटिव मरीजों को ये दवाइयां दी गईं। इसका 100% रिजल्ट आया।'  
[#Patanjalis\\_EvidenceBased\\_Medicine4Corona](#)  
[#PatanjaliCoronil](#)

10:57 AM · Feb 19, 2021 · Twitter Web App

64 Likes 54 Retweets 3 Replies

**Patanjali Ayurved** @PypAyurved

Moment of pride!!  
 Efforts of scientists at Patanjali to make corona medicine have been successful today  
[#Patanjalis\\_EvidenceBased\\_Medicine4Corona](#) [#PatanjaliCoronil](#)

11:14 AM · Feb 19, 2021 · Twitter Web App

200 Likes 128 Retweets 11 Replies

(extracted from the record)



50. Furthermore, the contesting defendants also put-out content purportedly citing instances of patients who had been cured of COVID-19 by using the said Tablet. Some such instances cited by the contesting defendants in the public domain are the following :

**स्वामी रामदेव** @yogrishiramdev

MND के रोगी ने योग और कोरोनिल से कोरोना को घर पर ही रहकर किया क्योर-जय जी ने कोरोना को योग और कोरोनिल की मदद से घर पर ही रहकर क्योर कर लिया है।  
#Patanjalis\_EvidenceBased\_Medicine

**योग का चमत्कार**



**MND के रोगी ने योग और कोरोनिल से कोरोना को घर पर ही रहकर किया क्योर**

1:05 PM · May 8, 2021 · Twitter for Android

673 Likes 305 Retweets 67 Replies

**स्वामी रामदेव** @yogrishiramdev

कोरोनिल के प्रयोग से एलोपैथी के डॉक्टर्स ने किया अपना बचाव-हॉस्पिटल का सारे स्टॉफ को कोरोना हुआ लेकिन जो दो डॉक्टर कोरोनिल का उपयोग कर रहे थे उन्हें कोरोना नहीं हुआ ये एक बहुत बड़ा प्रमाण है परिवार ने योग ओर आयुर्वेद का उपयोग करके खुद को सुरक्षित रखा। #coronil #Patanjali

**योग का चमत्कार**



**कोरोनिल के प्रयोग से एलोपैथी के डॉक्टर्स ने किया अपना बचाव**

12:13 PM · May 10, 2021 · Twitter for Android

4.2k Likes 1.4k Retweets 167 Replies



**स्वामी रामदेव** @yogrishiramdev

कोरोनिल और शिला तुलसी झाप से 6 महीने की बच्ची ने कोरोना को हराया- डॉक्टर दीपिका जी की 6 माह की बच्ची ने कोरोनिल और शिला तुलसी झाप से कोरोना को 3 दिनों में हरा दिया।  
#Patanjalis\_EvidenceBased\_Medicine

1:45 PM · May 11, 2021 · Twitter for Android

1.7k Likes 625 Retweets 101 Replies

**स्वामी रामदेव** @yogrishiramdev

हरीश जी ने योग और कोरोनिल से कोरोना को किया क्योर- हरीश जी ने योग, प्राणायाम और कोरोनिल से कोरोना को दो दिनों में ही क्योर कर लिया।  
#Patanjalis\_EvidenceBased\_Medicine

1:49 PM · May 11, 2021 · Twitter for Android

718 Likes 283 Retweets 49 Replies

**स्वामी रामदेव** @yogrishiramdev

कोरोनिल ना मिलने से तीन पीढ़ियों की मौत हुई और कोरोनिल व योग ने तीन पीढ़ियों को बचाया।  
#Patanjalis\_EvidenceBased\_Medicine

2:09 PM · May 23, 2021 · Twitter for Android

2.4k Likes 931 Retweets 291 Replies

**स्वामी रामदेव** @yogrishiramdev

प्रसस्थ और उनकी पत्नी दोनों ने योग करके और कोरोनिल, श्वासारि और दिव्य पेय से 5-6 दिनों में ही कोरोना को हरा दिया।  
#Patanjalis\_EvidenceBased\_Medicine

3:20 PM · May 23, 2021 · Twitter Web App

1.3k Likes 468 Retweets 61 Replies



(extracted from the record)

51. Mr. Alag has strenuously argued that the representations made by the contesting defendants in relation to the medicinal efficacy of the said Tablet are based on scientific study and trials conducted by them; added to which are the versions given by independent third-parties who have said that they were cured of COVID-19 by use of the said Tablet. However, this court is of the view that if the instances cited were sufficient proof of the medicinal efficacy of the said Tablet as a cure for COVID-19, the contesting defendants would doubtlessly have placed that data before the competent authorities, who would then have granted requisite statutory approvals, certifying the said Tablet as a cure for the disease.



52. However, this court is unable to accept the submissions made on behalf of the contesting defendants, since on a plain reading thereof, the approvals, certifications and licenses issued by the competent authorities in relation to the said Tablet *only permit its use as a supporting measure for COVID-19*, which means that the said Tablet is, at best, an immunity booster which strengthens the immune system in a general sense and the said Tablet cannot be advertised or promoted as a treatment, medicine or cure for COVID-19. To be clear, anecdotal evidence of some persons can never be a substitute for statutory approval, certification or licensing of the said Tablet as a treatment, medicine or cure for COVID-19.

#### **Observations of the Supreme Court**

53. For completeness, it is necessary to record in this order certain observations and directions made by the Supreme Court in the writ petition bearing W.P. (C) No. 645/2022 titled *Indian Medical Association & Anr. vs. Union of India*, which matter relates *inter-alia* to the contesting defendants having published misleading advertisements canvassing the medicinal efficacy of several products manufactured and marketed by them, which have been brought to the attention of the Supreme Court.
54. Though otherwise this court would not, and cannot, enter-upon the issues that are pending before the Supreme Court, as recorded above, the Supreme Court has specifically observed that the pendency of issues before them in relation to the contesting defendants would not amount to a stay of, and would not hinder, further proceedings in the suit(s) *inter-alia* pending before this court.



55. The relevant observations in various orders made by the Supreme Court in this regard are as follows :

**Order dated 21.11.2023 :**

*“3. Mr. Poovayya, learned senior counsel for the Respondent No.5, on instructions, assures this Court that henceforth there shall not be any violation of any law(s), especially relating to advertising or branding of products manufactured and marketed by it and, further, that no casual statements claiming medicinal efficacy or against any system of medicine will be released to the media in any form. The Respondent No.5 is bound down to such assurance.”*

**Order dated 27.02.2024 :**

*“2. At that stage, learned Senior Counsel appearing for the respondent no.5- Patanjali Ayurved Limited had assured the Court that henceforth, there shall not be any violation of any of the laws, especially relating to advertisement and branding of products manufactured and marketed by the respondent no.5- Patanjali Ayurved Limited. Further, no casual statements of claiming medicinal efficacy of any system of medicine will be released to the media in any form. This Court had bound down the respondent no.5- Patanjali Ayurved Limited to such assurances. It was also made clear that any suit pending inter se between the petitioner(s) and any person and the respondent no.5-Patanjali Ayurved Limited shall not be stayed and shall continue before the concerned Courts.*

*“3. Today, Mr. P.S. Patwalia, learned Senior Counsel appearing for the petitioners states that his briefing counsel proposes to file some newspaper advertisements in the daily newspaper “The Hindu” published on 04th December, 2023 (i.e. after the date of passing the order on 21st November, 2023) and a You Tube link and transcription of a Press Conference headed by Baba Ramdev and Acharya Balkrishna (Managing Director of the respondent no.5) conducted on 22nd November, 2023 (i.e. on the very next day of the passing of the order on 21st November, 2023).*

*“4. It is submitted on behalf of the petitioners that the aforesaid documents amply demonstrate that the respondent no.5 is*



*continuing to make incorrect assertions and misrepresentations in respect of its various products in the market by describing the said products as a permanent solution to such of the ailments that have been specifically listed in the Schedule appended to the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and the Schedule appended to the Drugs and Magic Remedies (Objectionable Advertisements) Rules 2, 1955.”*

\* \* \* \* \*

*“7. Prima facie, this Court is of the opinion that the respondent no.5-Patanjali Ayurved Limited has violated the undertaking given by it and recorded in the order dated 21st November, 2023.”*

\* \* \* \* \*

*“14. Till further orders, the respondent no.5-Patanjali Ayurved Limited is restrained from advertising or branding of products manufactured and marketed by it which are meant to cure the diseases/disorders/conditions specified in the 1954 Act and 1955 Rules. Respondent no.5 and its officers are also cautioned to refrain from making any statements against any system of medicine in the media (both electronic and print) in any form, as undertaken on 21st November, 2023.”*

### **Order dated 16.04.2024 :**

*“2. This Court has interacted with the proposed Contemnors No.6 and 7 for some time and have heard their submissions. Both of them have tendered their unqualified apology for having called a press conference immediately after an order was passed by this Court on 21st November, 2023 and for continuing to issue misleading advertisements and making derogatory statements in respect of other systems of treatment. They seek to assure this Court that they will be careful in future and not violate the orders of the Court or the undertaking given to the Court or violate the provisions of law.”*

(emphasis supplied)





56. What the aforesaid observations and directions of the Supreme Court show, is that despite having furnished undertakings and assurances to the Supreme Court, the contesting defendants have persisted in making misrepresentations in relation to the medicinal efficacy of their products, through advertisements and by holding press conferences.
57. In the opinion of this court, the same is the position in the present matter.

### CONCLUSIONS

58. Before recording its conclusions in the matter, this court reminds itself of the very pertinent observations made by the Supreme Court in *Deoraj vs. State of Maharashtra & Ors.*,<sup>36</sup> guiding the courts as to how they must deal with the conundrum where granting interim relief may overlap with the final relief. In this regard, the Supreme Court has observed as follows :

*“12. Situations emerge where the granting of an interim relief would tantamount to granting the final relief itself. And then there may be converse cases where withholding of an interim relief would tantamount to dismissal of the main petition itself; for, by the time the main matter comes up for hearing there would be nothing left to be allowed as relief to the petitioner though all the findings may be in his favour. In such cases the availability of a very strong prima facie case — of a standard much higher than just prima facie case, the considerations of balance of convenience and irreparable injury forcefully tilting the balance of the case totally in favour of the applicant may persuade the court to grant an interim relief though it amounts to granting the final relief itself. Of course, such would be rare and exceptional cases. The court would grant such an*

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<sup>36</sup> (2004) 4 SCC 697



*interim relief only if satisfied that withholding of it would prick the conscience of the court and do violence to the sense of justice, resulting in injustice being perpetuated throughout the hearing, and at the end the court would not be able to vindicate the cause of justice. Obviously such would be rare cases accompanied by compelling circumstances, where the injury complained of is immediate and pressing and would cause extreme hardship. The conduct of the parties shall also have to be seen and the court may put the parties on such terms as may be prudent.”*

(emphasis supplied)

59. With the above perspective and leaving all other aspects of the matter open for adjudication after a full-dressed trial, this court is however unable to discern any valid justification by the contesting defendants for the following actions on their part :

59.1. A plain reading of the impugned material shows that the contesting defendants have represented to the public-at-large that the said Tablet is a treatment, medicine and even cure for COVID-19. Such statements and representations are clearly contrary to, and in flagrant violation of, the statutory approvals, certifications and licenses issued by the Ministry of AYUSH and/or by the Licensing Authorities, as detailed above.

59.2. The statutory approvals, certifications and licenses referred to above, *at the most* permit the said Tablet to be used as a **“supporting measure for Covid-19”**, implying thereby that the said Tablet is at best an immunity booster, which strengthens the immune system of the human body in general. This is a far cry from saying that the said Tablet is a treatment, medicine or cure for COVID-19. All representations, statements and advertisements put-out by the contesting defendants contrary to



the statutory approvals, certifications and licenses that they hold, are *per-se* false, incorrect and mischievous. *Prima-facie* putting out such material amounts to public nuisance and a wrongful act, that would affect the public-at-large.

59.3. If the clear terms of the aforesaid approvals, certifications and licenses were not in themselves sufficient to ring-fence the permissible use of the said Tablet, a specific application made by the contesting defendants seeking to *update* the permissible use of the said Tablet was *not approved* by the Ministry of AYUSH *vide* their communication dated 07.01.2021, in which the Ministry reiterated that the permissible use of the said Tablet was as a *supporting measure* for COVID-19. All statements, representations and advertisements made by the contesting defendants contrary to such proscription by the Ministry, are in clear violation of the law. One also cannot lose sight of the fact that the offending statements were made at a time when the world was facing, what was unarguably the most serious health crisis that humanity had seen in the last century; and people were at their most vulnerable and prone to accepting whatever was put-out by the contesting defendants.

59.4. If anything was to remain, in the proceedings pending against the contesting defendants before it, the Supreme Court has observed that the concerned parties have persisted in making false statements and misrepresentations in relation to the efficacy of their drugs despite furnishing undertakings before the Supreme Court. The concerned parties which include Shri



Ram Kishan Yadav *alias* Swami Ramdev and Acharya Balkrishna, who are defendants Nos. 1 and 2 in the present suit, have also tendered unqualified apology on more than one occasion before the Supreme Court. This amounts to *mea culpa* on the part of the said two persons.

59.5. In response to the tail-end submission made on behalf of the contesting defendants about the response given by the Minister of AYUSH in Parliament, as pointed-out by the plaintiffs in *Sole Trustee, Lok Shikshana Trust vs. CIT, Mysore*<sup>37</sup> and *Kalpana Mehta & Ors. vs. Union of India*,<sup>38</sup> the Supreme Court has held that a statement made in Parliament, whose correctness may be disputable, has to be proved independently. Since the contesting defendants have not brought on record any material to prove the statement that they claim was made by the Minister, such statement would not help the contesting defendants. Suffice it to say, that even assuming that the Minister has made the statement as cited by the contesting defendants, it is unfathomable that the official certification by the Ministry of AYUSH and/or by the Licensing Authorities in exercise of their statutory powers can be overridden or nullified by a response given by the Minister to a question raised in Parliament. In the opinion of this court, such statement would not efface and over-ride what is prescribed in the statutory

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<sup>37</sup> (1976) 1 SCC 254 at para 33

<sup>38</sup> (2018) 7 SCC 1 at para 267



licenses, approvals, and certifications that have been issued by the competent authorities in relation to the said Tablet.

60. In fact, the very branding and labelling of the said Tablet as *Coronil* appears to suggest that the drug *nullifies* the coronavirus, that is to say it *cures* the disease, which may even amount to mis-labelling and/or mis-branding of the drug, which is impermissible under the provisions of the Drugs and Cosmetics Act, 1940.<sup>39</sup> However, this court leaves it to the competent authorities to examine this aspect, without making any further observations.
61. The present case presents a situation envisaged by the Supreme Court in *Deoraj* (supra), since in the opinion of this court, the plaintiffs have been able to make-out a very strong *prima-facie* case; the conduct of the contesting defendants has been egregious, with continuing potential of public nuisance and mischief; with the balance of convenience and the potential for irreparable injury weighing in favour of the plaintiffs. In the circumstances, this court is of the view that withholding interim relief in this case would tantamount to rendering the main relief infructuous. This cannot be countenanced, especially in a case under section 91 CPC, in which interim relief is sought in order to prevent wrongful acts that affect, or are likely to affect, the public-at-large or which amount to public nuisance.
62. As a sequitur to the above, this court is constrained to observe that if the contesting defendants are permitted to continue to promote and advertise the said Tablet, not only would the public-at-large be at risk

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<sup>39</sup> sections 33E, 33EEC and 33EED of the Drugs and Cosmetics Act, 1940



of their health, the ancient and venerated system of Ayurveda may itself come into disrepute.

63. In view of the above, the present application is allowed, with the following directions :

63.1. The contesting defendants are directed to *forthwith* delete and take-down from all websites on the internet and social-media platforms (that are within their management and control) all statements appearing at S. Nos. 1, 3 to 6, 9 to 12, 18 to 21, 23 to 25 and 35 of the table set-out in para 11 of this judgment. Let requisite compliances be made by the contesting defendants within 03 days of the pronouncement of this judgment.

63.2. The contesting defendants are hereby also restrained from further making, publishing, re-publishing, distributing, transmitting, or releasing to the public, the impugned statements referred to in S. Nos. 1, 3 to 6, 9 to 12, 18 to 21, 23 to 25 and 35 above; or *any other similar statements or content relating to Divya Coronil*, either through print, digital or electronic media or otherwise, in any manner whatsoever, either directly or through their employees, officers, partners, associates or agents, until final disposal of the present suit;

63.3. *Additionally*, if the contesting defendants fail to comply with the directions in para 63.1 above within the prescribed time-frame, in that event, defendant Nos. 7 to 9, being the social-media intermediaries, are directed to delete and take-down from their respective social-media platforms, the impugned statements referred to in S. Nos. 1, 3 to 6, 9 to 12, 18 to 21, 23



to 25 and 35 above, within 03 days after the time-frame prescribed in para 63.1.

64. The application is disposed-of in the above terms.

**ANUP JAIRAM BHAMBHANI, J.**

**JULY 29, 2024**

*ds/ak/V.Rawat*