

**SANOFI-SYNTHELABO VS ZAFI PHARMACEUTICAL LABORATORIES
(PRIVATE) LIMITED**

**(SINDH HIGH COURT Suit No.367 of 2003, decided on. 16th June,
2014.)**

ORDER

[MR. AAMIR RAZA NAQVI, JUSTICE].....This suit was filed for a relief to the effect that sale of Clopidogrel be prohibited by defendant in addition to any other pharmaceutical ingredients/element or compound. There were other similar reliefs as well. The written statement was filed in the matter and following preliminary legal objections were raised:

(1) That the Suit is misconceived, frivolous, and without cause of action. As the patent of the plaintiff has already expired on 16-2-2003 under section 11 of Patents and Designs Act, 1911 and section 29 of the Patents Ordinance, 2000, the same having been registered as Patent in France on February 17 1987, clause 2 of the Paris Convention published by World Intellectual Property Organization (WIPO) publication No. 4000(E) of which Pakistan is the signatory.

(2) That the plaintiffs allegations against the defendant of infringement of the Patent is prima facie without any evidence. As the matter of fact the defendants are not manufacturing any medicine /drug of Clopidogrel nor they have imported Clopidogrel manufactured by the plaintiff. The allegations are based purely on presumptions.

(3) That Clopidogrel is produced/manufactured by other Pharmaceutical Companies under their own invention, formula, device and import of the same by anyone in Pakistan is not restricted/prohibited under the Patents Ordinance (LXI of 2000).

So the suit is without cause of action. Thereafter suit was being proceeded and listed applications remained pending for considerable time, it is also fixed for examination of parties/settlement of issues. The order dated 23-1-2014 shows that both the learned counsel were conscious of the fact that in the month of May, 2014 the suit would become infructuous and it was ordered that suit be taken up thereafter. For such purpose, learned counsel for the parties sought time to take instructions and matter was adjourned to 11-2-2014. On such date, the matter was again adjourned to 25-2-2014 by consent. On 25-2-2014 learned counsel for the plaintiff stated that instructions have been taken from the plaintiff and since the terms of patent shall, in any case, expire by the end of May, 2014, therefore suit itself shall be withdrawn. In the same order, it was also observed that from 1st June, 2014 interim orders shall automatically stand recalled and vacated without any order being required by the Court. After such date plaintiff stopped appearing in the matter despite the fact that notices were repeated. In view of above facts and circumstances, it appears that this suit has become infructuous and no purpose can be achieved by any of the parties by keeping this matter pending in Court without any reason. In view of this, this suit cannot be kept pending and is required to be disposed. In the circumstances, mentioned above, it is an appropriate case in which following the theory of abatement suit should be ordered to have abated.

Reliance is placed in the case of Mubashir Muhammad Khan v. Government of Pakistan and others (1992 SCMR 866), in the judgment of said case the concept of abatement has been referred in para-5-A at page-870. In view of above, this suit is disposed of as having been infructuous along with listed applications.

Order accordingly