



Restoring Patent Rights, Bt Cotton II

Click [here](#) to know more on the issue

\n\n

Why in news?

\n\n

Recently, the Supreme Court has restored US-based Monsanto Technology's patent on technology used in Bt Cotton seeds.

\n\n

Why is the matter in court?

\n\n

\n

- The case relates to a dispute between Monsanto and Nuziveedu Seeds Ltd over the technology.

\n

- A 10-year sub-licence agreement was made between the two companies in 2004.

\n

- Under that, Nuziveedu could develop "Genetically Modified Hybrid Cotton Planting Seeds" with the help of Monsanto technology and commercially exploit it.

\n

- In return, Nuziveedu had to pay licence fee/trait value.

\n

- Monsanto terminated the agreement in 2015, with disputes having arisen over these payments amid a price control regime introduced by the government.

\n

- Monsanto filed a civil suit in Delhi High Court, claiming that Nuziveedu Seeds was infringing on its patent by using its technology.

\n

- It also filed an application for injunction to restrain Nuziveedu from using the Monsanto trademark during the pendency of the civil suit.

\n

- Nuziveedu filed a counter-claim against Monsanto's patent claim in the High

court.

\n

\n\n

What has Monsanto's argument been in this case?

\n\n

\n

- In the present suit, there are two sets of patent claims — claims 1-24 relating to processes, and claims 25-27 relating to the chemical product NAS (Nucleic Acid Sequence).

\n

- Monsanto has claimed that NAS is a man-made DNA construct and not part of a plant existing in nature.

\n

- The DNA construct is inserted into a plant “which confers the trait of insect tolerance”.

\n

- When it is inserted into the cell of the plant at a particular location, it results in the production of a fusion protein.

\n

- Monsanto's argument is that the production of the fusion protein is critical for the technology to be effected and it is only its technology that allows a cotton plant to produce it.

\n

- Thus, the product is protected by claims 25-27 of the patented inventions.

\n

\n\n

What has Nuvizeedu's argument been in this case?

\n\n

\n

- Nuziveedu focused on Section 3 (j) of the Patent Act, 1970, which served as the main ground for the revocation of the mentioned Patent.

\n

- It contended that, under Section 3(j) - Plants and animals, other than microorganisms, including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals are not inventions.

\n

- Thus, claim 25 of the Patent relates to ‘nucleic acid sequence’, is equated in terms of “a plant cell, a seed, a transgenic plant or a plant variety”.

\n

- Hence it is not considered as inventions and cannot be granted a patent in India.
\n
- Further, Nuziveedu contended that Bt. Trait in Cotton Hybrid varietal plants is an essential biological process.
\n
- Cross-bred plants and animals are not patentable because they are better regarded as discoveries which happens naturally and therefore, it's just a discovery which has taken place in a laboratory.
\n
- It has also argued that its rights are protected under the Protection of Plant Varieties and Farmers' Rights Act, 2001.
\n

\n\n

What happens now?

\n\n

- \n
- The Delhi High had passed two separate orders in this case.
\n
- The First order ruled that during the pendency of the case, both parties would have to abide by obligations under their agreement.
\n
- Also, Nuziveedu Seeds should pay licence fees in accordance with the regulatory requirement.
\n
- In the second order, the high court ruled that Monsanto's patent claim was invalidated under Section 3(j) of the Patents Act.
\n
- However, the Supreme Court recently overturned this judgement saying that Monsanto can claim patents on its genetically modified (GM) cotton seeds.
\n
- Thus, the SC ruling restores the first order of the High court and hence the same bench of the HC will now hear the matter of patentability on this case.
\n

\n\n

\n\n

Source: The Indian Express

\n



IAS PARLIAMENT

Information is a Blessing

A Shankar IAS Academy Initiative