

**BEFORE THE PLANT VARIETIES REGISTRY
AT NEW DELHI**

Oppn. No. 5,6,7,8 & 9 of 2024

In the matter of: PV-5 filed by Opponent for seeking extension of time for filing of Final Oppositions and Evidences in Oppositions filed by M/s Nuziveedu Seeds against

- 1. Application No. E196-GH1-08-226 –Cotton - MRC 7351 - filed by Mahyco Private Limited.**
- 2. Application No. N145-GH177-08-535 –Cotton-MRC 7383 - filed by Mahyco Private Limited.**
- 3. Application No. E205-GH33-08-259 –Cotton-MRC 6918 Bt - filed by Mahyco Private Limited.**
- 4. Application No. E198-GH4-08-229 –Cotton-MRC 7301- filed by Mahyco Private Limited.**
- 5. Application No. E206-GH37-08-263 –Cotton-MRC 6322 Bt- filed by Mahyco Private Limited.**

In the matter of:

M/s Nuziveedu Seeds Private Ltd.

.....Opponent

-Versus-

M/s Maharashtra Hybrid Seeds Company Limited

.....Applicant

For the Opponent: Sh. K. V. Girish Chowdary, Advocate for Opponent.



**For the Applicant: Dr. Malathi Lakshmikumaran, Attorney
for Applicant.**

ORDER

By this order I shall dispose of ten PV-5 forms filed by Opponent for extension of time for filing of Final Opposition and Evidence in each of the five Oppositions.

Heard the parties today through online mode (27th February, 2025).

The Applicant was granted time to file written submission on or before 24th February, 2025 but has filed the same on 26th February, 2025 (Public holiday) and in the interest of justice, the said written submissions in all the ten PV-5 Forms in five oppositions are taken on record. The Parties are referred to in the nomenclature as in the Opposition Proceedings. The issue involved is same in all the five Oppositions and hence, a common order is passed at this stage. It is also clarified that no mention or observation is made about the merits of the matter.

FACTS OF THE CASE: -

The Applicant filed the application for registration of their cotton varieties which are as follows: -

S. No.	Denomination	Filed on
1.	MRC 7351	02.04.2008
2.	MRC 7383	17.12.2008
3.	MRC 6918 Bt	02.04.2008
4.	MRC 7301	02.04.2008



5.	MRC 6322 Bt	02.04.2008
----	--------------------	------------

These applications were advertised and were subject matter of judicial proceedings. Finally, the said advertisements by the order dated 30th November, 2023 of the Hon'ble Delhi High Court in W.P. (C) Nos.4312/2014, W.P. (C) IPD 8/2022, 9/2022, 10/2022 & 4/2023 between the parties to the proceedings were quashed with a direction to consider the DUS test results and re-advertise the same. Consequently all these applications were advertised in the Plant Variety Journal of India [PVJ Vol. 18 No. 03, dated March 01, 2024 uploaded on 1st April, 2024] inviting oppositions under Section 21 of the Act. On 1st July, 2024, the Opponent filed oppositions in all the said five applications of the Applicant. The Notice of Opposition (PV-3) in all the five matters were forwarded to the Applicant and they were received by the Applicant the details are tabulated hereunder: -

S. NO.	DENOMINATION	NOTICE OF OPPOSITION (PV-3) FORWARDED TO THE APPLICANT - DETAILS	DATE OF RECEIPT OF PV-3 BY APPLICANT
1.	MRC 7351	PPV&FRA/Legal/18/2024/1919 dated 12.07.2024	16.07.2024
2.	MRC 7383	PPV&FRA/Legal/20/2024/1922 dated 12.07.2024	16.07.2024
3.	MRC 6918 Bt	PPV&FRA/Legal/21/2024/1920 dated 12.07.2024	16.07.2024
4.	MRC 7301	PPV&FRA/Legal/19/2024/1923	16.07.2024



		dated 12.07.2024	
5.	MRC 6322 Bt	Notice of Opposition dispatched by Registry vide letter no. PPV&FRA/Legal/17/2024/1921 dated 12.07.2024 to the Applicant	16.07.2024

In all the five Oppositions, the Applicant under Section 21(4) of the PPVFR Act, 2001 had to file Counter-Statement (PV-4) within two months from the date of receipt of Notice of Opposition (PV-3). Accordingly, Applicant was bound to file PV-4 on or before 16th September, 2024 but the said day was a public holiday on account of Eid. Hence, the last date for filing PV-4 was 17th September, 2024. The Applicant filed Counter-Statement in all the five oppositions on 17th September, 2024 within the prescribed time in the law.

The said Counter-Statement was forwarded to the Opponent for filing of Final Opposition and Evidence under Rule 31(6) and Rule 33(1) of PPVFR Rules, 2003 respectively. The details of forwarding of counter-statement to the Opponent are as follows: -

S. NO.	DENOMINATION	DETAILS OF COUNTER-STATEMENT (PV-4) FORWARDED TO THE OPPONENT	DATE OF RECEIPT OF PV-4 BY OPPONENT
1.	MRC 7351	PPV&FRA/Legal/18/2024/4922 dated 2/3.01.2025	04.01.2025
2.	MRC 7383	PPV&FRA/Legal/20/2024/4921	04.01.2025



		dated 2/3.01.2025	
3.	MRC 6918 Bt	PPV&FRA/Legal/21/2024/4920 dated 2/3.01.2025	04.01.2025
4.	MRC 7301	PPV&FRA/Legal/19/2024/4919 dated 2/3.01.2025	04.01.2025
5.	MRC 6322 Bt	PPV&FRA/Legal/17/2024/4918 dated 1/3.01.2025	04.01.2025

As reiterated earlier, in all the five oppositions the Opponent has to final opposition under Rule 31(6) of PPVFR Rules, 2003 within 30 days from the date of receipt of Counter-Statement and evidence under Rule 33(1) of PPVFR Rules, 2003 within one month from the date of receipt of counter statement. Hence the last date for filing of final opposition in all the five oppositions would be 3rd February, 2025 and for filing of evidence in all the five oppositions would be 4th February, 2025. The Opponent has filed PV-5 seeking one month time extension for filing of final opposition and evidence in all the five oppositions.

CASE OF THE OPPONENT: -

The contention of the Opponent is that despite the judgement of Hon'ble High Court of Delhi dated 30th November, 2023 the applications were advertised on 1st April, 2024 with coded parental lines. The Opponent is ascertaining the original name and true characteristics of the parental lines and conduct its own DUS comparison between Applicant's coded denominated parent lines and Opponent's in-house parent lines to demonstrate



in the final opposition and evidence. The findings of said DUS comparison are crucial and will provide substantive evidence. The extension will allow Opponent to collate all relevant details and prepare evidence in support of Opposition.

CASE OF THE APPLICANT: -

The Opponent has to explain the delay with reference to the candidate variety and not with reference to its parental lines. The R&D codes are mere names and has no bearing on the time extension proceedings. The contentions and objections raised by the Opponent in the PV-5 matter are baseless. The averments *in toto* are baseless. The Opponent has made blatant statements and assertions devoid of any merit or substance. The Opponent has moved these PV-5 application with ulterior motive to delay the proceedings. The Opponent maliciously wants to prolong the applications. The applications are pending for registration for 17 years. Such extended proceedings have severely hampered the interest of the Applicant. The inaction of the Opponent in filing final opposition and evidence within the stipulated time clearly shows the scant regard of the Opponent for the statutory deadline. Rules for extension of time are discretionary and ought not to be granted in the present case. The contentions raised in the PV-5 forms are figment of imagination of the Opponent. The allegations of the Opponent are baseless. The Opponent has not shown sufficient cause and hence PV-5 be dismissed.

ANALYSIS: -

After hearing the parties, perusing the PV-5 forms filed by the Opponent and the written submissions of the Applicant, my



view is that only issue that has to be decided in all the ten PV-5 forms in the five oppositions is whether the Opponent has shown sufficient cause for extending time by one month for filing final oppositions and evidences respectively.

The last date for filing final oppositions were 3rd February, 2025 and the last date for filing evidences were 4th February, 2025. If extension is granted the Opponent would file final oppositions by 3rd March, 2025 and evidences by 4th March, 2025 and today is 27th February, 2025, almost hardly a week is left. No prejudice would be cause in granting extension of time by almost a week. The Applicant in their evidence has opportunity to counter the evidence of the Opponent effectively. If time extension is not granted, then both final oppositions and evidences of the Opponent would not be on record which would prejudice the Opponent.

Sufficient cause is not subject to trial. It has to be construed liberally. Parties must be provided opportunity to place their pleadings and evidence. Further even if prejudice is caused to the Applicant, it can be cured by costs. Costs are panacea to cure the prejudice caused by delays. Reasonable costs can be imposed on Opponent for compensating the delay.

Based on the aforesaid reasonings, I hereby allow the instant ten PV-5 Forms filed by the Opponent in all the five oppositions and extend the time for filing Final Oppositions from 4th February, 2025 to 3rd March, 2025 and for filing Evidences from 5th February, 2025 to 4th March, 2025 conditionally on payment of costs of Rs.5,000/- (Rupees Five Thousand Only) to National Gene Fund separately in respect of each of the ten PV-5



forms filed in all the five oppositions. The costs to be paid on or before 3rd March, 2025. I also hereby direct the Registry to forward the Account Number, IFSC Code and Name of the Bank of National Gene Fund to Opponent along with this order. If the costs imposed by this order is not paid or insufficiently paid on or before 3rd March, 2025 the instant order shall stand automatically vacated and consequently the Final Oppositions and Evidence to be filed in these matters cannot be taken on record. No further time shall be granted for deposition of costs

Given under my hand and seal on this 27th day of February, 2025.

(D.K. AGARWAL)
REGISTRAR-GENERAL

