

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

IN THE MATTER OF: PV-5 filed by Cancellation Applicant for seeking extension of time for filing Rejoinder to the Reply to Cancellation Application against registration of Application No. N19 OS19 10 252 for varietal denomination PAN 804 having registration number 51 of 2018 registered in favour of M/s. Pan Seeds Pvt. Ltd., (Registered Breeder).

IN THE MATTER OF: -

SEED ASSOCIATION OF BENGAL

..... Cancellation Applicant

-Versus-

M/S. PAN SEEDS PVT. LTD.,

..... Registered Breeder

For the Cancellation Applicant: Ms. Neeti Wilson, Advocate for M/s. Anand and Anand.

For Register Breeder: Mr. Abhishek Saket, Advocate for M/s. Infini Juridique.

ORDER

Heard the parties on 21st July, 2022 through video conferencing.

In the instant order, I shall dispose of the Form PV-5 filed by Cancellation Applicant requesting for three months extension of time to file rejoinder to the Reply to Cancellation



Petition. The parties are referred to in the nomenclature as in the Cancellation Application.

The facts of the case are that the Cancellation Applicant filed an application to cancel the registration of rice variety denominated as PAN 804 and registered in favour of Registered Breeder. The Registry vide letter No. PPV&FRA/Legal/05/2021/2057 dated 7th February, 2022 notified the Registered Breeder of the Cancellation Application. In the said letter one month time was granted for filing reply along with supporting affidavit. The same was served on the Registered Breeder on 14th February, 2022. The Reply to the Cancellation Application was filed in the Registry on 14th March, 2022 and the same was dispatched to the Cancellation Applicant vide letter No. PPVFRA/Legal/05/2021/2489 dated 21st/ 22nd March, 2022 which was served on the Cancellation Applicant on 25th March, 2022. In the said letter one month time was granted to the Cancellation Applicant to file their rejoinder to reply in Cancellation Application. The Cancellation Applicant vide letter No. PPVFRA/Legal/05/2021/323 dated 2nd May, 2022 was informed by this Registry that the time limit for filing rejoinder by Cancellation Applicant is granted till 30th May, 2022 as per Public Notice No.1 of 2022.

The case of the Cancellation Applicant is that on 25th April, 2022, the Cancellation Applicant filed the instant PV-5 praying for time extension of three months. The Attorney of the Cancellation Applicant in view of COVID 19 was able to report the said notice to the Cancellation Applicant only after four weeks. That the additional time is needed due to the time required by the Attorney to coordinate with the Cancellation



Applicant based in Kolkata and difficulty is in availability of the management of the Cancellation Applicant at present time. The delay in co-ordination between Attorney and Cancellation Applicant is also due to the COVID 19 situation. The Cancellation Applicant also relies on the Hon'ble Supreme Court order relied by this Registry in issuing orders relating to extension of time. She also submitted that co-ordination has to be done with several authorities for filing the rejoinder. Accordingly, the Cancellation Applicant is seeking time to extend time for filing rejoinder upto three months that is upto 30th August, 2022.

The Registered Breeder opposed the grant of extension of time. He argued that even if extended it must be extended from the lapse of time and not from today.

Upon perusing the pleadings and hearing the arguments of the parties, the only issues that has to be examined is whether the Cancellation Applicant has shown sufficient cause to extend the time limit for three months. It is also well settled that the sufficient cause has to be construed liberally. Here the Cancellation Applicant states that the Attorney was affected by Corona and she has reported the notice of Opposition of the Registered Breeder to Cancellation Applicant only after four weeks and further time is required for the Attorney to coordinate with the Cancellation Applicant and also due to the availability of management members of the cancellation Applicant. It is also equally well settled that for non-communication of pleadings by Attorney the Cancellation Applicant cannot be put to hardship. The balance of convenience is in favour of the Cancellation Applicant. If the Cancellation Applicant is ought not allowed



to file the Rejoinder to Reply to the Cancellation Application then the Cancellation Applicant will be put to irreparable loss and hardship. On the other hand the Registered Breeder will not be put to any prejudice by allowing the instant petition.

Costs cures delay. Hence, I have no hesitation to allow conditionally the instant PV-5 petition as prayed for on payment by Cancellation Applicant costs of Rs.15000/- (Rupees Fifteen Thousand Only) to National Gene Fund on or before 4th August, 2022. If the Cancellation Applicant fails to pay the same, the instant order shall stand automatically vacated and the PV-5 will stand dismissed on ground of non-payment of costs. The Cancellation Application upon payment must inform the undersigned of the compliance and accordingly the time limit for filing reply to notice of opposition is extended for a period of three months from 31st May, 2022 to 30th August, 2022.

Given under my hand and seal on this the 21st day of July, 2022.



Nag
(T.K. NAGARATHNA)
REGISTRAR