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

\# **CNR No. DLHC010551792026**

\+ C.A.(COMM.IPD-PV) 5/2026

ADVANTA ENTERPRISES LIMITED .....Appellant

Through: Mr. Dayan Krishnan, Sr. Advocate with Mr. Adarsh Ramanujan, Ms. Archana Sahadeva, Mr. Parth Singh, Mr. Harshit Bhoi, Mr. Shreedhar Kale, Advocates.

versus

REGISTRAR GENERAL , PROTECTION OF PLANT VARIETIES AND FARMERS RIGHTS AUTHORITY AND ANR. ...Respondents

Through: Ms. Nidhi Raman, CGSC with Mr. Rishay Raj, Advocate for R1.
Mr. K.V. Girish Chowdhry and Mr. D. Satya Sai Sumanth, Advocates for R2.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

O R D E R

% 20.11.2026

I.A. 31567/2026 ***(by appellant under Section 151 CPC seeking leave to file lengthy synopsis and list of dates and events)***
I.A. 31568/2026 ***(by appellant under Section 151 CPC seeking leave to file dim and illegible documents)***

1. Allowed, subject to all just exceptions.

2. The applications stand disposed of.

C.A.(COMM.IPD-PV) 5/2026 and I.A. 31566/2026 ***(by appellant under Section 151 CPC seeking stay of the order dated 10.09.2026)***

3. The present appeal has been preferred by the appellant under Section 56(1)(a) of the Protection of Plant Varieties and Farmers Right Act, 2001 (hereinafter referred to as "Act"), assailing the finding under issue (f) of the impugned order dated 10.09.2026 passed by the Registrar General, Protection

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of Plant Varieties and Farmers Rights Authority, New Delhi (hereinafter 'the Registrar General').

4. The case of the Appellant is that on 05.04.2018, the Appellant had filed Application No. N2-AE2-18-164 seeking registration of their Okra variety denominated as "V130014"/"Raadhika". While the application was under consideration, the appellant filed an application being Application No. 1 of 2021 under Section 24(5) of the Act against the respondent no.2 herein, alleging that the said respondent is abusing the appellant's variety "V130014"/ "Raadhika" by commercially selling its identical variety "Bindu"/"NBH-45".

5. One of the main grievances of the appellant is against the direction given by the Registrar General, whereby a Local Commissioner has been appointed to purchase the seeds of the respondent no.2's variety "Bindu"/"NBH-45" having reasonable duration of viability with a further direction that the seeds so purchased by the Local Commissioner shall be forwarded to the Authority for conducting the DUS test. The relevant extract of the direction given by the Registrar General reads thus:

> *"Accordingly, Sh. R.S. Sengar, working as Consultant Technical (Shivamogga), PPVFR Authority is appointed as a Commissioner to purchase the seeds of the Respondent's variety 'Bindu'/NBH-45' having the reasonable duration of viability and at least minimum germination percentage as prescribed in Indian Minimum Seed Certification Standards supported by due invoice in presence of two representatives each of Applicant and Respondent and with two independent witnesses and forward the same to the Authority. The Commissioner before executing the Commission shall issue notice to the parties. The fee of the Commissioner is fixed at Rs.25,000/- (Rupees Twenty-Five Thousand Only) which will be borne by the Applicant. The fee to the Commissioner shall be paid in advance. Commissioner shall*

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file the report within two weeks of the execution of the warrant. The Commissioner shall along with the report forward the original invoice and seeds of the Respondent's Variety 'Bindu'/'NBH-45' duly purchased to the Authority for conduct of DUS test. The seeds (for DUS testing) of the Respondent's Varieties 'Bindu/'NBH-45' shall be purchased from seed sellers in Maharashtra, Andhra Pradesh and Telengana. The travel expenses of the Commissioner will be borne by the Applicant. If willing to do so, the Respondent may also submit the seeds of 'Bindu' /'NBH-45' duly supported by an affidavit for DUS testing. The said seeds along with the seeds of Respondent's variety 'Bindu'/'NBH-45' procured by the Applicant and secured by the Local Commissioner will be forwarded by the Authority to the ICAR-IIVR, Varanasi, DUS centre for conducting DUS test of Respondents' Varieties 'Bindu'/'NBH-45' in the coming Kharif 2027.

The seeds of 'Bindu'/'NBH-45' submitted by the Applicant along with the instant application, seeds of 'Bindu'/'NBH-45 submitted by Respondent, if any and secured by the Commissioner shall not be mixed up and be grown and DUS characters be recorded separately by the DUS centre. The representatives of Applicant and Respondent can inspect the DUS centre subject to prior permission and payment of fees as per the norms. After the conduct of DUS test, the report would be forwarded to the Authority by the respective DUS centre in a sealed cover.

The Registry will post this matter for further hearing after the receipt of the said reports. A copy of the DUS test reports of Respondent's variety 'Bindu'/'NBH-45' shall be provided by the Registry to both Applicant and Respondent."

6. Mr. Dayan Krishnan, learned Sr. Counsel appearing on behalf of the appellant, submits that Section 24(5) of the Act provides for protecting the interest of a breeder against an abusive act committed by any third party during the period between filing of an application for registration and the decision taken by the Authority on such application. He submits that the application was filed by the appellant on 05.04.2018 and the registration was

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granted by the Authority on 30.06.2025. Therefore, the seeds on which DUS test can be conducted must pertain to the said time frame.

7. He submits that the said seeds are available with the Authority as the same were provided by the appellant with its application, and the same could be germinated by the Authority for having the DUS test conducted.

8. According to Mr. Krishnan, subjecting the seeds, which have now been directed to be procured by the Local Commissioner, to DUS test would be beyond the mandate of Section 24(5) of the Act.

9. In view of the above, issue notice.

10. Learned counsel appearing on behalf of respondent no.1, as well as learned counsel appearing on behalf of respondent no.2, accept notice.

11. Learned counsel for respondent no.2 raises a preliminary objection with regard to the maintainability of the present appeal.

12. He, however, submits that respondent no.2 has also filed a writ petition assailing the same order dated 10.09.2026. He, therefore, contends that he has no objection in case the directions, as passed under issue (f), are stayed till the next date of hearing, without prejudice to the rights and contentions of the respondent no.2.

13. Let replies be filed by the respondents within a period of six weeks. Rejoinders thereto, if any, be filed before the next date of hearing.

14. List on 09.03.2027.

15. In the meanwhile, the directions contained in the impugned order under issue (f) i.e. "*Whether Applicant's variety V130014 (Raadhika) and Respondent's variety 'Bindu'/'NBH-45' are identical or distinct?"*, are stayed till the next date of hearing.

16. Respondent no.1 is also directed to preserve, in a sealed condition and

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under storage condition suitable for seed, the seed samples of “Bindu”/“NBH-45” submitted by the appellant with its application.

VIKAS MAHAJAN, J

NOVEMBER 20, 2026/*jg/sj*

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