



**IN THE SUPREME COURT OF INDIA
EXTRAORDINARY APPELLATE JURISDICTION**

Special Leave Petition (C) Nos.10320-10321 of 2024

Kavitha Kuruganti

.... Petitioner (s)

Versus

PepsiCo India Holdings Pvt. Ltd.

.... Respondent (s)

ORDER

Having heard Sri Colin Gonsalves, learned Senior Counsel for the petitioner and Sri S. Niranjan Reddy, learned Senior Counsel for the first respondent, we find that the controversy surviving in the above case is very narrow.

2. The first respondent applied for registration under the Protection of Plant Varieties and Farmers' Rights Act, 2001¹, describing FL 2027 as a new variety seed with the date of first commercial sale indicated to be 17.12.2009; based on an Assignment Deed dated 26.09.2003 by the original breeder, to a company in the United States of America, which is an affiliate of the first respondent.

¹ Hereinafter referred to as 'the Act'

3. The petitioner herein, canvassing the rights of individual farmers, approached the authority for a revocation under Section 34 of the Act. The revocation order passed was challenged by the first respondent before the High Court in an appeal, as provided under the Act. The learned Single Judge held in favour of the first respondent in certain aspects and sustained the revocation order on some other aspects. Both the petitioner and the first respondent filed appeals before the High Court. A common judgment passed is impugned before us.

4. The controversy arising is as to the application of Section 39 (1)(iv) which is extracted hereinbelow: -

“39. Farmers’ rights. —(1) Notwithstanding anything contained in this Act, —
(iv) a farmer shall be deemed to be entitled to save, use, sow, resow, exchange, share or sell his farm produce including seed of a variety protected under this Act in the same manner as he was entitled before the coming into force of this Act: Provided that the farmer shall not be entitled to sell branded seed of a variety protected under this Act.”

5. Learned Senior Counsel for the petitioner argued that this was the concern all along agitated by the petitioner, which has not been dealt with by the High Court. On the contrary, we find from the impugned order that the High Court has dealt with Section 39(1)(iv) of the Act and the allegation of public interest leading to a revocation under Section 34(h) of the Act.

6. The High Court has clearly found that the allegation was raised merely with reference to various suits filed by the first respondent, alleging infringement against individual farmers. The High Court, according to us, rightly found that there was nothing to establish that these suits were vexatious or that they had been instituted as a predatory tactic of the first respondent. Filing of suits for the protection of rights conferred under the statute, *per se* cannot be held to be intimidatory or vexatious. Section 34(h) of the Act, hence, was not attracted, according to the High Court and if there was any allegation of a vexatious suit, then the same would have to be raised and proved at the appropriate stage before the appropriate forum, held the High Court. We find absolutely no reason to interfere with the same.

7. Be that as it may, considering the fact that the petitioner is not agitating a personal cause and is attempting to protect the interest of the farmers, we only make it clear that any individual farmer who claims protection under Section 39(1)(iv) of the Act, would be entitled to do so in any proceeding initiated by the first respondent and prove that they come under its cover. However, we make it clear that we cannot restrain the first respondent from taking legal remedies, if their rights are infringed.

8. With the above observation, the Special Leave Petitions are disposed of finding no reason to interfere with the judgment in appeal passed by the Division Bench of the High Court.

9. Pending application(s), if any, shall also stand disposed of.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
AUGUST 05, 2026.**