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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6672/2013 & CM APPLN. 14503/2013**

MONSANTO TECHNOLOGY LLC Petitioner
Through **Mr.R.Partha Sarathy, Adv. with**
Mr.Anil Dutt & Ms.Gunjan Hans,
Advs.

versus

CONTROLLER OF PATENTS, DELHI & ANR Respondents
Through **Mr.Manish Mohan, CGSC with**
Ms.Manisha Saroha, Adv. for R-1 to
3.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% 05.12.2018

Vide the present petition, the petitioner has challenged the order dated 05.07.2013 passed by the Intellectual Property Appellate Board in OA/2/2012/PT/DEL.

Learned counsel appearing on behalf of the petitioner submits that this Court in RFA(OS) No.92/2012 has held that following inquiries are required to be conducted.

“118. From the decisions noted above to determine obviousness/ lack of inventive steps the following inquiries are required to be conducted:

Step No.1 To identify an ordinary person skilled in the art,

Step No.2 To identify the inventive concept embodied in the patent,

Step No.3 To impute to a normal skilled but unimaginative ordinary person skilled in the art what was common general knowledge in the art at the priority date.

Step No.4 To identify the differences, if any, between the matter cited and the alleged invention and

ascertain whether the differences are ordinary application of law or involve various different steps requiring multiple, theoretical and practical applications,

Step No.5 To decide whether those differences, viewed in the knowledge of alleged invention, constituted steps which would have been obvious to the ordinary person skilled in the art and rule out a hideshow approach.”

However, counsel for the petitioner submits that neither respondent no.1 nor the Intellectual Property Appellate Board has inquired under the law the steps mentioned above. Thus, counsel for the petitioner has submitted that let this matter be remanded to respondent no.2 who shall take into consideration the directions of this Court passed in RFA mentioned above vide order dated 08.12.2015.

Counsel for the respondents does not dispute the submission made by counsel for the petitioner and agreed that let the present matter be remanded back to respondent no.2 for fresh adjudication in terms of order dated 08.12.2015.

Accordingly, the impugned order dated 05.07.2013 is hereby quashed and directed respondent no.2 to pass a fresh order in terms of order dated 08.12.2015 passed in RFA(OS) No.92/2012.

The petition is, accordingly, disposed of.

In view of the order passed in the writ petition today, CM APPLN. No. 14503/2013 has been rendered infructuous and the same is disposed of, as such.

SURESH KUMAR KAIT, J

DECEMBER 05, 2018/ab