

IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
(Intellectual Property Rights Division)

IPDPTA/5/2024

BASF SE
VS
JOINT CONTROLLER OF PATENTS AND DESIGNS AND ORS

Before:
The Hon'ble Justice RAVI KRISHAN KAPUR
Date: 13th March 2025

Appearance:
Ms. Mini Agarwal, Adv.
...for appellant.

Mr. Sayantan Kar, Adv.
Mr. Arkaprava Sen, Adv.
...for respondent.
Ms. Rini Bhattacharyya, Adv.
...for controller of patents.

Mr. S. Majumdar, Sr. Adv.
Mrs. A. Majumdar, Adv.

The Court: The matter is mentioned on behalf of the respondent no. 4 and
taken up for hearing by consent of the parties.

By a judgment dated 7 March, 2025, this Court in disposing of
IPDPTA/5/2024 had held as follows;

“17. In view of the above, the impugned order is unsustainable and set aside.

The appeal stands allowed. In view of the peculiar facts and circumstances and the inordinate delay in disposing of the subject application, the following directions are passed:

a. To issue a hearing notice within two weeks from the date of this order and dispose of the subject application alongwith all objections within four weeks from the date of communication of this order;

b. As the documents filed by respondent no.4 in their objection are the same and have been relied upon by respondent no.2, the requirement for issuing notice under Rule 55(3) and the filing of Reply Statement is dispensed with;

c. The appellant shall address the opposition filed by respondent no.4 at the hearing.

d. In order to obviate any apprehension of predetermination, the Controller who has passed the impugned order shall not rehear the matter and the subject application alongwith all the objections are to be considered by any other Controller or Appropriate Officer.”

It is submitted on behalf of the respondent no. 4 that inasmuch it has been held that the impugned order dated 4 March, 2024 was unsustainable on merits, the same would cause severe prejudice to the respondent no. 4 at the final hearing of the matter before the Controller. It is further submitted that the order dated 7 March, 2025 (in particular, paras 10 to 16) creates a real possibility of the Controller being prejudiced insofar as the merits of the case are concerned.

The appellant is represented and does not oppose the submissions of the respondent no.4.

In view of the above, it is clarified that the judgment dated 7 March 2025 is not binding on the merits of the case is concerned and the same shall not prejudice either of the parties at the final hearing of the proceedings before the Controller. All points on the merits are left open and the Controller is at liberty to decide the same afresh in accordance with law.

(RAVI KRISHAN KAPUR, J.)

SK.