



Patents for Green Fingers

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Two decisions in India on the protection of plant varieties provide useful guidance in this area, as Archana Shanker reports.

While there is sufficient Indian jurisprudence in relation to patents and other forms of IP, there has been very little judicial debate in relation to the Protection of Plant Varieties and Farmers' Rights ([PPVFR](#)) Act.

In 2015 and 2016 there were two significant decisions of the Delhi High Court under the PPVFR Act. These decisions are in relation to protecting parental lines of an extant variety as being novel under section 15(3)(a) and "provisional protection" under section 24(5).

In 2015, the Delhi High Court interpreted several provisions of section 15(3) with a view to deciding whether parental lines of a known hybrid (extant variety) could be registered as a new plant variety.

Extant variety, defined under section 2(j), is a farmer's variety or a variety of which there is common knowledge or which is in the public domain. The PPVFR Act permits registration of extant varieties and novel varieties, but in addition to distinctiveness, uniformity and stability, a new variety has to satisfy the criteria of novelty.

Secret seeds

The present case dealt with an order of the Registrar of the Authority denying registration to Maharashtra Hybrid Seed Company for its parental lines of the extant variety. The main contention of the petitioner revolved around whether the parental lines of an extant variety should be considered as novel, as the parental lines of the hybrid variety are not sold and their identity is kept secret.

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