

M/S Maxim India Integrated Circuit ... vs Andappa (D) By Lrs. And Ors. .Etc .Etc on 2 January, 2025

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Bench: C.T. Ravikumar

2025 INSC 17

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal Nos. 3650-3655 of 2018

M/s Maxim India Integrated
Circuit Design (P) Ltd.

... Appellant(s)

Versus

Andappa (D) By LRs & Ors.

...Respondent(s)

With

Civil Appeal No. 3656 of 2018

JUDGMENT

C.T. RAVIKUMAR, J.

1. The above set of six appeals viz., CA Nos.3650- 3655 of 2018 are filed by the self-same appellant viz., M/s Maxim India Integrated Circuit Design (P) Ltd., against the common judgment and order dated 26.02.2010 in Writ Appeal Nos. 1708, 1705, 1707, 1709, 1738 of 2006 and 206 of 2007 passed by the High Court of Karnataka at Bangalore. As per the impugned judgment, the High 17:43:10 IST Reason:

Civil Appeal Nos. 3650-3655 of 2018 Court dismissed W.A. Nos.1708, 1705, 1707, 1709 of 2006 filed by the appellant herein, WA No 1738 of 2006 filed by one Sr. Basanth Kumar Patil and allowed WA No.206 of 2007 filed by one Sri. Andappa, the first respondent herein. The Civil Appeal No. 3656 of 2018 is filed against the order in IA No.2 of 2007 in WA No.206 of 2007 whereunder the High Court condoned the delay of 1378 days in filing the said writ appeal and despite allowing the impleadment of the appellant herein as respondent No.5 in the said writ appeal and reserving it for pronouncement of judgment without providing the appellant an opportunity to

oppose the appeal on merits. The contention of the appellant herein is that it is the condonation of the inordinate delay on 1378 days in filing the said appeal that convoluted the matters and ultimately created a situation calling for resolution in the cases involved in the other bunch of six appeals. We will deal with the said contention appropriately a little later.

2. The appellant herein is a 100% owned subsidiary of Maxim Integrated Products, USA, which claims to be the owner of property comprised in Survey No.1/3 (previously Sy.No.49/43-A) admeasuring 46995 square feet, hereinafter referred to as the 'suit property'. It Civil Appeal Nos. 3650-3655 of 2018 forms part of a larger property admeasuring 2 acres, 29 guntas in Sy. No.49/3 of Jakkasandra village.

3. The further case of the appellant is as under:-

Property in Sy. No.49/3 was initially purchased by Messrs Chinnappa and Munniappa from one Sri. Munivenkatappa. Upon the death of Sr. Chinappa, his rights over the property vested in favour of D. Munniappa and AC Munniappa and other legal heirs. Messrs Krishnappa, s/o Chinappa (respondent Nos.2 herein) and Sri. Andappa, the first respondent herein filed a petition, being LRF No.835/74-75 under the Karnataka Land Reforms Act, 1961 (for short, 'KLR Act') claiming that they were cultivating properties in Sy. No.49/43 admeasuring 2 acres, 19 guntas along with Sy. No.49/20 admeasuring 20 guntas and in Sy.No.49/17 admeasuring 18 guntas. Tenancy Petition bearing LRF No.1114/74-75 was filed by Kirishna s/o Mundappa s/o Muddanna and Mr. Andappa @ Andi, s/o Muddanna claiming that they were cultivating lands in Sy. Nos.48, 49 and 56 as distinct and different from Sy. Nos.49/3 and 50/2. As per the order dated 10.07.1981, the Land Tribunal dismissed the tenancy petition LRF No.835/74-

75, filed by Krishanappa and Andappa, and the said Civil Appeal Nos. 3650-3655 of 2018 order in LRF No.835/74-75 had attained finality. Meanwhile, D. Munniappa and AC Munniappa along with the other legal heirs of Chinnappa, mortgaged their land comprised in Sy. Nos.49/43 and Sy. No.50/21 in favour of the Mysore State Financial Corporation to one Mr. ND Mani in order to repay the loan availed from the Mysore State Financial Corporation. Later, some disputes arose between the aforesaid D. Munniappa and AC Munniappa, but then, it was compromised and pursuant to the compromise decree dated 03.03.1989 in OS No.1491/1983 it was agreed that the property bearing Survey Nos.49/43 and 50/21 of Jakkasandra village will be sold to Sh. N.D. Mani for consideration of Rs.1 lakh. Thereafter, the legal heirs of Sh. D. Munniappa and A.C. Munniappa sold the aforesaid property to one Sh. Basant Kumar Patil who was the nominee of Sh. N.D. Mani. Later, Sh. Basant Kumar Patil applied for mutation of Khata in his name, but the Tehsildar rejected the application in respect of Survey No.49/43A being aggrieved by the said order Sh. Basant Kumar Patil filed an appeal before the Asst. Commissioner and the same was objected by the respondent No.1-Andappa. The Asst. Commissioner allowed the appeal of Sh. Basant Kumar Patil and set aside the order of the Tehsildar and remanded the Civil Appeal Nos. 3650-3655 of 2018 matter back to the Tehsildar for fresh inquiry. On such remand the Tehsildar considered the same and again rejected the application

for mutation filed by the said Basant Kumar Patil. Again, he filed an appeal before the Asst. Commissioner and the order of the Tehsildar was again set aside and a direction for effecting mutation in favour of Sh. Basant Kumar Patil was issued by the Asst. Commissioner. Respondent No.1-Andappa filed Writ Petition No.36236 of 1995 before the High Court. The same was allowed by the High Court as per the judgment dated 10.02.1999 and the matter was remanded for fresh consideration. Considering the matter afresh pursuant to the order of remand, the Asst. Commissioner issued a direction for mutation of the said property in favour of Sh. Basant Kumar Patil. The first respondent preferred a Revision Petition against that order of the Asst. Commissioner before the Deputy Commissioner who set aside the order of the Asst. Commissioner. Feeling aggrieved Sh. Basant Kumar Patil preferred a Writ Petition Nos.26717, 26808 and 26809 of 2002 before the High Court of Karnataka. As per the judgment dated 25.03.2003 the High Court allowed the Writ Petition holding that claim of respondent No.1 was a subject matter of Tenancy Petition No. LRF 835/74-75. The High Civil Appeal Nos. 3650-3655 of 2018 Court also observed that the proceedings in respect of LRF 835/74-75 was decided a long back and therefore, the Deputy Commissioner had erred in ignoring the entire facts of the case and directing to enter the name of respondent No.1-Andappa in the mutation register. Subsequent to the said order dated 25.03.2003, the Tehsildar directed for entering the name of Sh. Basant Kumar Patil in the records. On 15.09.2004, the petitioner purchased the suit property from the said Basant Kumar Patil.

4. After the purchase of the suit property by the appellant, the first respondent-Andappa filed a suit against the appellant seeking permanent injunction restraining the appellant for dispossessing him and his son from the suit schedule property. Pursuant to the order dated 16.02.2006 whereunder an order to maintain the status quo was passed, the appellant preferred an appeal before the High Court. As per the judgment dated 28.07.2008 the same was allowed and the interim order dated 16.02.2006 was set aside. Meanwhile, knowing about the pendency of LRF No.1114/74-75 before the Tribunal the appellant appeared before the Tribunal, and apprised that LRF No.835/74-75 stood Civil Appeal Nos. 3650-3655 of 2018 dismissed on 10.07.1981. That apart it was informed that land in survey No.49/43A was not at all a subject matter in LRF No.1114/74-75 and to afford opportunity to the appellant in case the said proceeding in respect of land in survey No.49/43A is proceeded with. Based on an oral observation made by the Tribunal, the appellant filed an application to get itself impleaded as a respondent in the said proceedings. However, as per the order dated 07.02.2006 the Tribunal rejected the impleadment application and then allowed the claim of respondent No.2 and his father.

5. Aggrieved by the order dated 07.02.2006, the appellant herein filed a Writ Petition No.4525/2006. The vendor of the petitioner namely, Sh. Basant Kumar Patil, also filed WP No.6170/2006 against the very same order passed by the land Tribunal. Two other vendees of Basant Kumar Patil preferred WP No.5639/2006 against the order dated 07.02.2006 of the land Tribunal. Another Writ Petition viz., WP No.5730/2006 was also filed against the same order of the land Tribunal. Those Writ Petitions were disposed of by Ld. Single Judge of the High Court as per common order dated 07.09.2006 and quashed the order of the land Tribunal dated 07.02.2006 and remanded the matter back to the Tribunal for a fresh Civil Appeal Nos. 3650-3655 of 2018 consideration. The sole ground upon which the Ld. Single Judge quashed the order of the Tribunal and passed such direction for fresh consideration was non- issuance of notice to Sh. Basant Kumar

Patil. Contending that the order dated 07.09.2006 came to be passed because of the failure to appreciate the fact that remanding the matter would result in permitting the Tribunal to review its own order which had attained finality as early as in the year 1981, the appellant filed Writ Appeal Nos.1708, 1705, 1707 and 1709, of 2006. The vendor of the appellant Sh. Basant Kumar Patil also preferred an appeal being Writ Appeal No.1738 of 2006 against the said order dated 07.09.2006.

6. Meanwhile, respondent No.1-Andappa filed a Writ Appeal No.206/2007 against the order dated 25.03.2003 in WP No.26717/2002 whereunder, the Learned Single Judge quashed the order of the Deputy Commissioner directing for entering the name of respondent No.1 in the mutation register. As noticed hereinbefore, the Learned Single Judge set aside the order of the Deputy Commissioner observing and holding that the proceedings in respect of LRF No.835/74-75 was decided long back and attained finality. The appellant filed an application for impleadment in Writ Appeal Civil Appeal Nos. 3650-3655 of 2018 No.206/2007, as mentioned earlier contending that in the proceedings under challenge therein the appellant was not a party as the challenge thereunder pertained to order dated 25.03.2003 and at the same time the appellant purchased the suit schedule property only on 15.09.2004. As noticed hereinbefore the application for impleadment of the petitioner was allowed and at the same time the appellant was not provided with an opportunity to oppose the appeal on merits. In the application for impleadment itself it was contended that the order sought to be impugned in Writ Appeal No.206/2007 had attained finality. As noticed hereinbefore Writ Appeal No.206/2007 was taken on file by the High Court after condoning the delay of 1378 days in filing the said appeal as per order in IA No.2/2007 filed therein. The captioned appeals have been filed in the said circumstances against the impugned common judgment dated 26.02.2010 in the aforementioned Writ Appeals.

7. Heard the learned counsel appearing for the parties in the Appeals.

8. The appellant would contend that the common judgment dated 26.02.2010 came to be passed in the manner mentioned therein due to the non-appreciation Civil Appeal Nos. 3650-3655 of 2018 of the position that LRF No.835/74-75 had attained finality and was not pending when the Deputy Commissioner passed the order whereunder the order of the Asst. Commissioner directing mutation of the property in favour of Sh. Basant Kumar Patil, the vendor of the appellant was set aside. In short, it is the contention that the rightful conclusion and consequential orders passed by the learned single judge in the Writ Petition Nos.26717, 26808, and 26809, of 2002 on 25.03.2003 had not only attained finality but also it was worked out in as much as consequential orders and steps were taken based on the same. Based on the direction in the said writ petitions dated 25.03.2003 the special Tehsildar passed Annexure P-11 dated 05.09.2003 and the and the same was unsuccessfully challenged by the first respondent-Andappa before the Asst. Commissioner in an appeal filed under Section 136(2) of the Karnataka Land Revenue Act, 1964 in RA(S) No.104/2003-04. The appeal was dismissed as per order dated 04.12.2003. It is the further submission of the appellant that first respondent was a party to case No. RRT(I) Dispute which was considered by the special Tehsildar pursuant to the direction of the judgment of the Learned Single Judge in the aforementioned writ petitions dated 25.03.2002. A Civil Appeal Nos. 3650-3655 of 2018 perusal of order dated 05.09.2003 passed by the special Tehsildar would reveal that, taking into account the request for adjournment of that application by the advocate for the respondent

therein viz., the first respondent herein-Andappa on the ground that LR No.835/74-75 is still pending before the Land Tribunal, it was adjourned from time to time. However, upon the failure of the respondent to produce any document showing the pendency the special Tehsildar listed the matter for orders to 05.09.2003. It was observed thereafter that thus:-

“An endorsement to the effect that it is not Inam land was issued earlier i.e., on 09.08.95 by this office. In that endorsement it was clarified that the land in question is not any Inam land or is not matter of litigation in any Civil Court”, and then the special Tehsildar went on to pass the final order thus:-

“AS THE name of the Petitioner is in Current RTC Guntas in Survey No.49:43A 0-10 Guntas, in Survey Nos.49:42, 0-34 Guntas, 21 Guntas in Survey No.50:21., it is therefore ordered that Status quo ante may be continued.” Civil Appeal Nos. 3650-3655 of 2018

9. In fact, feeling aggrieved by the same the respondent No.1 herein filed an appeal as RA(S) 104/2003-04 under Section 136(2) of the Karnataka Land Revenue Act, 1964. After considering the contentions of the respondent No.1 and also Sh. Basant Kumar Patil the Asst. Commissioner found the appeal of respondent No.1 devoid of merit and consequently dismissed the same and confirmed the order dated 05.09.2003 of the special Tehsildar. It is subsequent to the same that the appellant purchased the property from Sh. Basant Kumar Patil as per sale deed dated 15.09.2004. These factual aspects are indisputable in view of the materials on record.

10. We have earlier observed the contention of the appellant that the failure to take into account the fact that pursuant to the order of the learned Single Judge dated 25.03.2003 in WP No.26717/2002 and connected matters consequential orders were passed by the special Tehsildar at Annexure P-11 and the same was confirmed in an appeal at the instance of respondent No.1-Andappa as per Annexure P-12 that the application to condone the delay of 1378 days filed in Writ Appeal No.206/2007 was passed and it convoluted the matters unnecessarily, would be considered later. The facts discussed in detail revealed from materials on record would justify the Civil Appeal Nos. 3650-3655 of 2018 submission made by the learned counsel for the appellant as above. It is also the contention of the appellant that the respondent No.1 who suffered such orders of the authorities based on his action to allow the order dated 25.03.2003 in WP No.26717/2002 and connected matters to become final and thereby giving a quietus to the issues did not disclose the factum of passing such consequential orders either in the Writ Appeal or in the application filed for condoning the delay. The contention of the learned counsel appearing for respondent No.1 is that the non-disclosure of the aforesaid aspects are inconsequential in view of the pendency of an appeal filed against the judgment dated 25.03.2003 in WP No.26717/2002 and connected matters. We have no hesitation to hold that the said contention is liable to be repelled at the threshold. There can be no doubt that a ‘fact being in consequential’ and ‘non- disclosure of the said fact’ are different and distinct. The said submission itself would reveal the fact that respondent No.1 did not disclose the said fact which was very crucial while filing an appeal against the order dated 25.03.2003 with an application to condone the inordinate delay of 1378 days. The respondent No.1 cannot feign ignorance about such orders as he was a Civil Appeal Nos. 3650-3655 of 2018 party to the order of

the Tehsildar passed in compliance with the direction in the order of the Learned Single Judge dated 25.03.2003 and further on account of the fact that it was he who preferred an appeal against the said order of the special Tehsildar before the Asst. Commissioner. That apart, even after suffering such an adverse order he had not chosen to challenge the same and allowed that to become final.

11. In the contextual situation, it is relevant to refer to a decision of this Court in *Ramjas Foundation v. Union of India*¹, wherein this Court held that if a litigant did not come to the Court with clean hands, he is not entitled to be heard and indeed such a person is not entitled to any relief from any judicial forum.

12. That apart on a careful scrutiny of the materials on record we found certain alarming situation revealing the attempt of manipulation made by the first respondent.

13. The judgment under challenged in Writ Appeal No.206/2007 viz., Annexure P-10 dated 25.03.2003 in WP No.26717/2002 and connected matters would reveal that when the matter was earlier remanded to the Tehsildar pursuant to the order of the Asst. Commissioner the first (2010) 14 SCC 38; 2010 INSC 763 Civil Appeal Nos. 3650-3655 of 2018 respondent contended that his claim in regard to survey No.49/43 on the ground that it is an inam land and his application for grant of occupancy rights before the Land Reforms Tribunal is pending for consideration. The Learned Single Judge found that such a submission was made with reference to application in LRF No.835/74-75 it is on a careful consideration of the said submissions that it was found by the Learned Single Judge that the said submission was absolutely untenable and devoid of any merit. The learned Single Judge found that the very basis of the contention of respondent No.1 is an order passed by the Bangalore South Taluk Land Reforms Tribunal in LRF 1114/74-75 wherein Messrs Krishnappa and Gundama were the applicants. The land owners in that case were Sreenivasa Rao, Raja Shekaraiah and Jalakanteshware of Venketapura village. It was further found that the said order would disclose that the subject involved in those matters are one comprised in survey no.50/11 admeasuring 1 acre 10 guntas and survey no.56 admeasuring 5 acres and 36 guntas. On such consideration it was found that respondent no.1 was not a party in LRF No.1114/74-75 and the subject matter of WP No.246717/2002 viz., survey No.49/43 is not the subject matter of the said case. LRF No.835/74-75 relates Civil Appeal Nos. 3650-3655 of 2018 to survey Nos.49/20, 49/43 and 49/17 of Jakkasandra village and the declarants were Krishna, Andi, s/o Muddanna and evidently the person referred as Andi therein is none other than the first respondent. What was challenged before the High Court by Sreenivasa Rao in WP No.34193/81 was the decision in LRF 1114/74-75. True that the High Court set aside the Land Tribunal's order in that case on ground that it is not a speaking order. In such circumstances what was pending after the remand was nothing but LRF No.1114/74-75 and not LRF No.835/74-75. The application filed by respondent no.1 for grant of occupancy rights in LRF No.835/74-75 was rejected as early as on 10.07.1981. If there was an order pertaining to the case in LRF 835/74-75 after 10.07.1981 after clubbing it with the order in LRF No.1114/74-75 there was absolutely no necessity for the respondents to change the name as Andi @ Andappa and Krishna @ Krishnappa and also to change the name of their father as Lt. Muddanna @ Muniswamappa. The original proceedings in LRF No.835/74-75 and in LRF No.1114/74- 75 would reveal the fact that the respondents-Andappa and Krishnappa have not only made changes in their names but also changed the name of their father by Civil Appeal Nos.

3650-3655 of 2018 showing that they are the sons of Mudanna @ Muniswamappa.

14. Taking into account all the said aspects and in the light of the decision in Ramjas Foundation's case (supra) the impugned order passed in the Writ Appeals are liable to be interfered with. Consequently, these appeals are allowed and the judgments in Writ Appeal Nos. 1708, 1705, 1707, 1709, 206 and 1738, of 2006 are set aside and the judgment in the Writ Petitions from which the corresponding appeals arose are restored.

....., J.

(C.T. Ravikumar), J.

(Sanjay Kumar) New Delhi;

January 02, 2025.

Civil Appeal Nos. 3650-3655 of 2018