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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 14.02.2023

+ CM(M) 239/2023

MISHRA INFRACON PVT LTD AND ORS Petitioner

versus

PALAMOU COOPERATIVE HOUSING
SOCIETY LTD AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Sanjay Kumar Ghosh, Advocate.

For the Respondent : None

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 7120/2023 (Exemption)

1. This is an application seeking exemption from filing certified copies of the annexures/documents.
2. Exemption is allowed, subject to all just exceptions.
3. The application stands disposed of.

CM(M) 239/2023 & CM APPL. 7119/2023 (Stay)

4. The petitioners challenge the order dated 15.09.2022 passed by the National Consumer Disputes Redressal Commission (in short “National Commission”) in CC No. 2610/2018 titled ‘*Palamou Co-*

operative Housing Society Ltd & Ors vs. M/s. Mishra Infracon (P) Ltd & Ors.’ whereby the learned National Commission has permitted the respondent/complainant to file an additional affidavit at the stage of final hearing.

5. Learned counsel appearing for the petitioners/respondents submits that though the learned National Commission has permitted the petitioners/respondents also to file additional affidavit, by way of introduction of new document, the respondent/complainant is setting up a different version than what was originally pleaded in the complaint.

6. Learned counsel submits that by virtue of permission granted to the petitioners for filing additional evidence would not help the petitioners/respondents in effectively rebutting new documents which have been placed by the respondent/complainant.

7. I have considered the submissions made by learned counsel for the petitioners and also perused the impugned order dated 15.09.2022 passed by the learned National Commission.

8. The learned National Commission has, without any doubt, granted a fair opportunity to the petitioners/respondents to file additional evidence in opposition to the simultaneous permission granted to the respondent/complainant.

9. However, in view of the submissions made by learned counsel for the petitioners/respondents, this Court is of the considered opinion that filing of additional evidence on behalf of the petitioner/respondent may not suffice the submissions so made and it may require something more.

10. Consequently, petitioners/respondents are permitted to file an additional affidavit strictly confining themselves to the additional

evidence filed by the respondent/complainant. Any reference to facts or issues other than those covered by the additional evidence, if found mentioned in the aforesaid additional evidence, shall stand eschewed and expunged from the record by the learned National Commission and it will not be taken into consideration at the time of final hearing.

11. Needless to say that such an affidavit, if filed, an opportunity to respondent/complainant may also be afforded by learned National Commission to file additional affidavit in opposition to the aforesaid affidavit being filed by the petitioners/respondents, in a similar restricted manner.

12. The petitioners may file their affidavit within four weeks from today and, if so desired and advised, the respondent/complainant may respond thereto within four weeks thereafter, and the learned National Commission may take up the final hearing of the aforesaid complaint.

13. It is made clear that the timelines are strict and any infraction of the timeline so stipulated above, shall entail vacation of the permission so granted.

14. With the aforesaid directions, the instant petition and pending application stands disposed of with no order as to cost.

TUSHAR RAO GEDELA, J

FEBRUARY 14, 2023

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