



Jose

IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NO.206 OF 2022

IN

MISC. CIVIL APPLICATION NO.61 OF 2020

SHRIJI BUILDERS, THR. ITS
PARTNERS THE APP. NOS. 2
AND 3 AND 2 ORS.

... Applicants.

Versus

HIMALAYA BUILDERS PVT. LTD.

... Respondent.

Mr Nigel Fernandes, Advocate for the Applicants.

Mr Ketan Morajkar, Advocate for the Respondent.

CORAM: VALMIKI MENEZES, J.

DATED: 23rd September, 2024

P.C:

1. This is an application requesting the Court to permit the Applicant to place on record an affidavit to controvert the facts stated by the Respondent in an early hearing application bearing Misc. Civil Application No.61/2020 in First Appeal No.117/2019, which was granted by this Court vide order dated 03.03.2020.

2. It is stated that though the Applicant does not request for recall of the order dated 03.03.2020, by which early hearing of the First Appeal was granted, the Applicant wishes to place on record an affidavit only for the purpose of traversing certain averments made by the Respondent in the early hearing application, which, according to the Applicant are incorrect statements.

3. It may be noted that MCA No.61/2020 was allowed by order dated 03.03.2020 on the sole ground that the Appellant is 83 years old, without adverting to any of the facts stated in the application. In this view of the matter, seeking leave to place an affidavit to oppose the contentions raised in that application would not arise. Be that as it may, since the application for early hearing was allowed on the sole ground that the Appellant was 83 years of age at the relevant time, it is made clear that none of the statements made in MCA No.61/2020 by the Appellant while seeking early hearing of the matter would be taken as admitted by the present Applicant merely because the same were not traversed by the affidavit in reply.

4. In this view of the matter, the application stands disposed of.

VALMIKI MENEZES, J.