



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 6452 OF 2024
IN
FIRST APPEAL NO. 1288 OF 2018

Vaishali Vijay Rasal.

...Applicant.

In the matter between :

M/s. Neumec Estate Develope

...Appellant.

Versus

Ramnath Sakharam Nikam and Others.

...Respondents.

Mr. Tushar Sonawane i/b Mr. Prashant Hagare for the Applicant.
Mr. P. S. Tiwari for the Respondent No. 1 to 7.

Coram : Sharmila U. Deshmukh, J.

Date : September 13, 2024.

P. C. :

1. By this application, the Applicant seeks to recall and set aside the order dated 6th September 2018 and the consent terms passed in First Appeal No. 1288 of 2018 on the ground that the same has been obtained by fraud and seeks restoration of the First Appeal.
2. Learned counsel appearing for Applicant submits that the order dated 6th September 2018 records the presence of the Respondent No. 1 to 7 whereas the Respondent No. 2, i.e., the mother-Anusaya had

already expired on that date. He would further submit that the Respondent No. 1 herein in collusion with the Appellant builder has mis-used the power of attorney given by the present Applicant including their mother which could not have been used for the purpose of executing the consent terms.

3. Mr. Tiwari, learned counsel appearing for the Respondent Nos.1 to 7 seeks time to file affidavit-in-reply. Let the affidavit-in-reply be filed before the next date.

4. It will be necessary to issue notice to the Appellant – Developer since no vakalatnama has been filed on his behalf. Issue notice to the Appellant-Developer returnable on **11th October, 2024**. In addition to Court notice, advocate for the Applicant to serve the Appellant-Developer by private notice by all possible modes of service and file affidavit of service before the next date.

[Sharmila U. Deshmukh, J.]