

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL WRIT PETITION NO. 568 OF 2021

(Radhika Rajesh Joshi ..vs.. Smt. Rajni Arun Joshi and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.D. Hajare, Counsel for the petitioner,
Mr. S.O. Ahmed, Counsel for respondent No.1,

CORAM : VINAY JOSHI, J.

DATED : 13-06-2022

Heard.

2. Today the petitioner has filed pursis seeking withdrawal of this petition with liberty to file appeal before the appropriate appellate Tribunal in terms of Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Act of 2007). The other side contended that already appeal was filed and withdrawn by the petitioner. Moreover, a fear is expressed that if liberty is granted to file appeal, then the petitioner as of right would insist appellate Tribunal to entertain the appeal on merits.

3. Initially respondent No.1-Rajni Joshi has filed an application for maintenance against petitioner-Radhika Joshi (daughter-in-law) seeking maintenance under the provisions of the Act of 2007. The said application was allowed, by which the petitioner (daughter-in-law) was directed to pay maintenance at the rate of Rs.10,000/- (Rupees Ten Thousand) per month. It reveals from the

record that initially said order was challenged by the present petitioner by way of appeal to Collector, Chandrapur, but it was withdrawn. In present petition, this Court has granted certain directions to the petitioner vide order dated 06-9-2021 in the nature of making certain compliance. At this stage, without making those compliance the petitioner has chosen now to withdraw this petition with liberty to file appeal before appropriate appellate Tribunal.

4. Since the petitioner-lady do not wish to prosecute this writ petition by all means, one cannot insist her to go on with the matter. The only aspect remains is about grant of liberty to file appeal. It is the fact that already petitioner had filed appeal, which was withdrawn. Having regard to said fact, it is for the appellate Tribunal to decide independently as to whether the fresh appeal if any filed, would be entertained or not.

5. As the petitioner desires to withdraw the petition, it stands disposed of with liberty to approach the appellate Tribunal. It is once again made clear that the appellate Tribunal shall independently decide the maintainability of appeal. It is needless to say that interim relief granted in this petition stands vacated.

JUDGE