

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10951 OF 2023

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Vina Suhas Patil & Ors.

... Petitioners

V/s.

Suhas Nandkumar Patil & Ors.

... Respondents

Ms. Ashwini Jadhav i/by Mr. Jagdish Aradwal Reddy
for the petitioners.

Mr. Bhooshan Mandlik with Ms. Rati S. Sinhasane for
respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 3, 2023

P.C.:

1. By the impugned order, the Trial Court rejected application of plaintiff No.1 seeking maintenance under section 151 of the Civil Procedure Code, 1908.
2. The Trial Court rejected the application on the ground that such application is not maintainable. Though there are observations made by the Trial Court on merits, such consideration on merits was not permissible as the application itself was not maintainable. Accepting the order, it will be open for the plaintiff No.1 to file an application under the provisions of the Hindu Adoptions and Maintenance Act, 1956, seeking maintenance against respondent No.1. However, it is made clear that such

application shall be decided by the Trial Court in accordance with the provisions of the Hindu Adoptions and Maintenance Act.

3. Grant of such liberty shall not be construed as expression on the entitlement on rights of the petitioners.

4. Hence, the writ petition is disposed of by granting liberty to the petitioners to file appropriate application before the Trial Court under the provisions of the Hindu Adoptions and Maintenance Act claiming maintenance against respondent No.1. No costs.

(AMIT BORKAR, J.)