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

WRIT PETITION NO. 14898 OF 2023

Prabhakar Narhar Aklujkar and ors

.....Petitioners

Vs.

Shital Prashant Aklujkar and Ors

.....Respondents

Mr. Niranjan Shimpi for the Petitioners

Mr. Ashok B. Tajane for Respondents

Mr. A. I. Patel, Addl GP a/w Smt. R. M. Shinde AGP for the State

CORAM : GAURI GODSE, J.

DATE : 16th FEBRUARY 2024.

P.C.

1. This Petition is filed for challenging the order dated 25th October 2023 passed by Collector and District Magistrate, Solapur under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ('the said Act') allowing the Appeal filed by respondent no. 1. Respondent no. 1 is daughter-in-law of the petitioners in whose favour, there was an order passed by the Tribunal under the said Act directing the respondents to vacate the premises. The said order was

challenged by respondent no. 1 under Section 16 of the said Act. Section 16 of the said Act permits an appeal only to a senior citizen being aggrieved by the order passed by the Tribunal.

2. Learned counsel for respondent no. 1 does not dispute that the appeal filed by respondent no. 1 was not maintainable. He therefore on instructions of respondent no. 1 seeks leave to withdraw the Senior Citizens Appeal No. 15 of 2023 filed by respondent no. 1 with liberty to challenge the order dated 10th October 2023 passed in an application filed by the petitioners. Learned counsel further submits that respondent no. 1 be granted protection for a limited period to enable her to challenge the said order.

3. Learned counsel for the petitioners submits that though petitioner no. 1 is the owner of the said premises, the petitioners are required to reside out of their own property. He therefore submits that respondent no. 1 be put to terms for grant of liberty as prayed. He further submits that this Court vide order dated 1st December 2023 had granted ad-interim relief restraining respondent no. 1 from creating third party interest in respect of the subject property.

4. In view of the statement made on behalf of respondent no. 1, this Writ Petition is disposed of by passing following order:

ORDER

I. Respondent no. 1 is permitted to withdraw Senior Citizens Appeal No. 15 of 2023 filed before the District Collector and District Magistrate, Solapur. Consequently, the Judgment and Order dated 25th October 2023 passed by District Collector and District Magistrate, Solapur in Senior Citizens Appeal No. 15 of 2023 is quashed and set aside.

II. Respondent no. 1 is at liberty to file appropriate proceedings as permissible in law for challenging the Judgment and Order dated 10th October 2023 passed by the Sub-Divisional Officer and Sub Divisional Magistrate, Solapur in Application No. 419 of 2023

III. To enable respondent no. 1 to file appropriate proceedings, Judgment and Order dated 10th October 2023 passed by the Sub-Divisional Officer and Sub Divisional Magistrate, Solapur in Application No. 419 of 2023, the same shall not be implemented for a period of three weeks from today subject to respondent no. 1 filing appropriate proceedings to challenge the said order

within a period of two weeks from today.

IV. Respondent no. 1 is restrained from creating third party interest in the subject property i.e. "Prajakta" Bungalow, Plot No. 55 D, Old Survey No. 273/1 and New Survey No. 17/1 at Antrolikar Nagar 1, Solapur, till decision of the appropriate proceedings, if any, initiated by the respondent no. 1.

V. It is clarified that if respondent no. 1 fails to challenge the order dated 10th October 2023 within period of two weeks from today, interim protection granted by this order will automatically stand vacated without further reference to the Court subject to respondent no. 1 getting any favourable orders in her favour, within three weeks from today.

VI. Needless to record that I have not examined the rival contentions of the parties on merits and hence all the contentions of all the parties are kept open.

5. Writ Petition is disposed of in above terms.

[GAURI GODSE, J.]