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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

**FIRST APPEAL NO.693/2015
WITH
CIVIL APPLICATION NO.3041/2015**

Vashishta Udhav Kute.
...Appellant..

Versus

Ayodhya Vashishta Kute.
...Respondent...

.....
Shri S.A. Nagarsoge, Advocate for appellant.
.....

CORAM: M.T. JOSHI, J.

DATE: 05.03.2015

ORDER :

- 1] Heard learned counsel for the appellant.
- 2] Present appeal is directed against the judgment passed by the Ad-Hoc District Judge No.1, Beed, under which the petition of the present appellant for custody of the child under the provisions of the Hindu Guardians and Wards Act is dismissed. The facts would show that the minor son of the present appellant was only 4 and 9 months old at the time of filing the petition against his wife who is residing separately from him. Present

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appellant has filed Hindu Marriage Petition against his wife alleging therein that she is living in adultery. Learned counsel for the appellant submits that now the minor has become 5 years old.

3] Taking into consideration overall facts that the minor was only 4 years and 9 months old and that the allegations of the present appellant that the respondent is living in adultery, are to be decided on merits by the matrimonial Court, in my view, there is no arguable case in the present appeal. The appellant would be at liberty to file similar application lateron as and when the exigency may arise in the light of above facts.

4] In the circumstances, the appeal is hereby rejected. Civil Application No.3041/2015 does not survive and disposed of as such.

(M.T. JOSHI, J.)