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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10819 OF 2016

Prashant s/o Malharrao Deshmukh,
Age: 37 years, Occu: Nil,
Residing at Flat No.2, Diamond Society,
Mhada Colony, Beside Malvani Bus Depot,
Malad (W), Mumbai

..PETITIONER

VERSUS

Prachi w/o Prashant Deshmukh,
Age: 32 years, Occu: Household,
Residing at : c/o Chandrashekhar Appaji Pawar,
Gut No. 452, Property No. 35/4, Sudarshan
Housing Society, Sambhaji Nagar,
Jalgaon

..RESPONDENT

Mr Kshitij Surve, Advocate for petitioner;
Mr N. B. Suryawanshi, Advocate for respondent

CORAM : NITIN W. SAMBRE, J.

DATE : 11th October, 2017

ORAL ORDER

The order impugned is dated 19th October, 2016, passed below application Exh.41, in Hindu Marriage Petition No.494 of 2015, by learned 4th Joint Civil Judge Senior Division, Jalgaon, rejecting the said application, wherein the directions were sought to have custody of minor son Rajvardhan in favour of the petitioner, being his father, for a period from 21st October, 2016 to 6th November, 2016.

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2. It is informed at bar by Mr Surve, learned Counsel appearing on behalf of the petitioner that the petitioner is indisposed because of medical ailment and is unable to attend the Court in Hindu Marriage Petition proceedings as also the present petition. There are arrears of maintenance, which are not cleared by the petitioner, in spite of the fact that time and again, the matter is adjourned for the said purpose. Be that as it may, keeping in mind humanitarian approach *qua* the issue raised before this Court, when this Court requested the respondent-mother to bring the child to Family Court, Aurangabad, on a fixed date so as to facilitate meeting of the petitioner, the petitioner is not in a position to make a statement about clearing entire arrears of maintenance and also depositing conveyance charges for the respondent.

4. Apart from above, the fact remains that application Exh.35, seeking similar type of order, was already rejected by the Civil Judge Senior Division, Jalgaon, against which no proceedings are taken out by the petitioner-father.

5. In the aforesaid background, I hardly notice any ground to interfere in the impugned order.

6. However, considering the nature of prayer made and the fact that the petitioner is father of child Rajvardhan, liberty is granted to him to take out fresh application before the proper court for issuance of directions to meet the child, provided he clears all arrears of maintenance and also

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deposits conveyance charges, as shall be fixed by the Court, if such occasion arises.

7. It is made clear that for passing such order, considering the welfare of the child, the petitioner must clear all arrears of maintenance.

With aforesaid liberty, writ petition stands dismissed.

(NITIN W. SAMBRE, J.)

amj