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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.3622 OF 2017

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| 1. Deepak Suresh Chavan
Age - 31 years, Occ - Service
R/o Kosgaon, Taluka - Yawal,
District - Jalgaon | APPELLANTS |
| 2. Atharv Deepak Chavan,
Age - 3 years,
u/g of appellant No.1 | |

VERSUS

- | | |
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| Sau. Punam Deepak Chavan
Age - 26 years, Occ - Household
R/o c/o Subhash Ramkrushana Patil,
New Quarter No. 7/1
Deepnagar, Taluka - Bhusawal
District - Jalgaon | RESPONDENTS |
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Mr. Vinod P. Patil, Advocate for the appellants
Mr. Ajit M. Gholap, Advocate for the respondent

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 7th MARCH, 2018

ORAL JUDGMENT :

1. Heard learned advocates for the parties finally.
2. Learned advocates for the parties state that although this is a first appeal, looking at the nature of litigation, record may not be necessary and calling of the record and proceedings can

be dispensed with. As such, calling of record for decision of the appeal, with consent of learned advocates for the parties is dispensed with.

3. Present appeal is by father seeking custody of minor child Atharva, arising out of order passed in Civil Miscellaneous Application No. 187 of 2014. Atharva is born on 26th December, 2011 to appellant No.1 and the respondent. Parents, father - appellant No.1 and mother - the respondent, of the child are at logger heads and are litigating. There have been allegations and counter allegations between the spouses. Appellant No.1 is stated to have been employed in ordnance factory at Bhusawal and is residing at Bhusawal, where, according to learned advocate for the appellants, proper educational facilities are available and the child can be brought up and his welfare should receive precedence over all other considerations. Learned advocate for the appellants further purports to contend that the respondent is residing at a place where there are no proper educational facilities, albeit, appellant No.1 has already arranged for education of son Atharva in English medium school. He further purports to contend that there have been several attempts of reconciliation between the spouses, however, somehow or the other those have not borne fruits. He, under the

circumstances, having regard to prevailing position, on instructions, presently resiles to a situation wherein instead of custody of the child, appellant No.1 be allowed visitation schedule and meet son Atharva once in a week, preferably on Sunday.

4. Learned advocate for the respondent Mr. Gholap submits that the respondent was forced to be separated from her husband and is presently residing with her parents as it had been difficult to go along with appellant No.1, where there had been problems with in laws and it had become difficult for her to go along and reside with appellant No.1. According to him, it is not that the respondent is willingly residing with her parents. He submits that the place of residence of the respondent cannot be termed as a village, for it is a separate residential colony developed for Thermal Power Station and it is properly planned and all civil facilities are available there. The area where the respondent resides presently is known as Deepnagar. She has been earning, doing some tailoring work. He further, on instructions, submits that looking at the desire of the appellant No.1, the respondent accedes to the request wherein weekly visit of father and meeting of child can be possible.

5. Learned advocates on instructions state that in aforesaid terms the appeal can be disposed of.

6. Appellant No.1 may visit / meet son Atharva between 10.00 a.m. and 5.00 p.m. on every Sunday at a place convenient to the parties. First appeal is disposed of in aforesaid terms.

7. In view of disposal of first appeal, civil application No. 7573 of 2016 does not survive and is disposed of accordingly.

[SUNIL P. DESHMUKH, J.]