

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

APPEAL FROM ORDER NO.115 OF 2015

**BALASAHEB JAGANNATH PARKHE
VERSUS
NILIMA BALASAHEB PARKHE**

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Advocate for the Appellant : Shri G. J. Karne

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 26th MARCH, 2019.

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PER COURT :

1. The Appellant is aggrieved by the order dated 30/10/2015 passed by the learned District Judge-1, Vaijapur thereby rejecting MARJI No. 22/2013 filed by the Appellant praying for the custody of the minor son Siddharth.

2. I have heard the learned Advocate for the Appellant at length. With his assistance, I have gone through the paper book. Despite service of Court notice on the respondent wife through paper publication, no appearance is entered.

3. The Appellant is in military service. He is presently

residing at Delhi. The son is said to be about 9 years of age today. The application for seeking custody of the child was preferred in 2013 and the said application was rejected by the impugned order on 30/10/2015.

4. I find from the impugned order that the child is said to be residing with his biological mother. There has been no police complaint lodged by the Appellant alleging that the mother has forcibly taken away the child. It is now informed, after taking instructions from the father of the Appellant present in the Court, that the Appellant has re-married and is staying with his second wife.

5. The appellant has made reckless allegations against his wife. He could not produce any evidence in support thereof. It appears that such allegations have been levelled, to influence the Court in believing that his wife is a characterless Lady.

6. Considering the above and keeping in view that a child of a tender age is residing with his natural mother, I do not find any reason to interfere with the impugned order. This

Appeal, being devoid of merit is, therefore, dismissed.

7. The Appellant is a natural father and he is serving in the Military. Though he has re-married, he may have the desire of having the company of the child or visitation rights. As such, the Appellant would be at liberty to renew his request, in the month of March, 2020 or any time thereafter.

(RAVINDRA V. GHUGE, J.)

shp/-