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

**WRIT PETITION NO. 10635 OF 2019
WITH
INTERIM APPLICATION NO. 1 OF 2019
IN
WRIT PETITION NO. 10635 OF 2019
WITH
INTERIM APPLICATION NO. 2 OF 2019
IN
WRIT PETITION NO. 10635 OF 2019**

Mr. Devang Mahendra Shah

.....Petitioner

V/s.

Mrs. Sheetal Devang Shah

.....Respondent

Mrs. Tauban F. Irani a/w Lubna Ansari a/w Sachi Lodha for the
Petitioner

Mrs. Sheetal Devang Shah respondent in person present

CORAM : NITIN W. SAMBRE, J.

DATE : DECEMBER 18, 2019.

P.C.

Not on board. Taken on board.

2 Heard learned counsel for the petitioner.

3 In a divorce proceedings initiated by the respondent-wife pursuant to provisions of Section 13 of Hindu Marriage Act, application Exhibit 48 came to be moved by respondent-wife with two fold submissions: (a) permission be granted to close down PPF account of minor son Veer who is aged about 17 years and the balance amount lying in the said account be immediately transferred to the account of younger son so as to meet with education expense. I am informed that the aforesaid prayer was granted by the order impugned dated 03/09/2019 by the Family Court, Mumbai. Since after grant of aforesaid prayer, amount already stood transferred to the school account, challenge to that extent has already rendered infructuous;

(b) second prayer of the respondent-wife which is granted by the Family Court is, declaring her as legal guardian of the son Veer who is aged about 17 years till final disposal of the case.

4 Challenge by the petitioner-father to the aforesaid order is on the ground that there is no such relief claimed in the main petition

and the very responsibility of the petitioner as a father is under cloud particularly when being father he could have given better attention to education and upbringing of the child Veer.

5 The learned Family Court while declaring respondent-wife as guardian has considered the welfare of the child and based on same, has recorded a finding declaring respondent-wife as guardian.

6 Said arrangement is made by the Family Court till the disposal of the main petition. This Court cannot be oblivious to the fact that age of the son for whom respondent-mother, wife of the petitioner is declared as guardian, is 17 years.

7 In the aforesaid background, having regard to the fact that petition is also preferred against an interlocutory order, I see no reason which warrants interference. Petition stands dismissed.

8 The aforesaid findings recorded are *prima facie* in nature and the Court below shall not be influenced by the findings recorded

herein above while deciding the main proceedings.

9 Since the petition is dismissed, all interim applications also stand disposed of.

[NITIN W. SAMBRE, J.]