

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

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**CIVIL APPLICATION NO. 258 OF 2019
IN
FAMILY COURT APPEAL NO. 168 OF 2019**

Amit Bajirao Tambe

....Applicant

V/s.

Poonam Amit Tambe

...Respondent

Mr. Swapnil V. Walve for Petitioner.

None for Respondent.

**CORAM : K.R. SHRIRAM &
MILIND N. JADHAV, JJ.
DATED : 29th JUNE, 2022**

P.C. :

1. When we asked counsel for the background of the matter, counsel stated that this appeal is against the impugned order of the family court passed on 8th April, 2019 by which the family court rejected appellant's prayer for permanent custody of the son under the provisions of Section 25 of The Guardian and Wards Act, 1890 read with Section 26 of The Hindu Marriage Act, 1955.

2. Mr. Walve states that he is now not pressing for that relief and he is only seeking leave to access the child. The counsel states that such a prayer was not made before the family court.

3. In our view the entire foundation of this appeal goes away when counsel states that he is not pressing his prayer of permanent custody

of the child under the provisions of Section 25 of The Guardian and Wards Act, 1890 read with Section 26 of The Hindu Marriage Act, 1955.

4. In the circumstances, appeal dismissed.

5. Should appellant wish to approach the family court for right to access the child, appellant may do so and the family court can consider the application on its own merits. We are not making any observations on the merits of the matter.

6. In view of the above, Interim Application also stands dismissed.

(MILIND N. JADHAV, J.)

(K.R. SHRIRAM, J.)