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**THIS ORDER IS CORRECTED AND UPLOADED IN VIEW OF
THE ORDER DATED 23-10-2024.**

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

**903 FIRST APPEAL NO. 2121 OF 2023
WITH CA/6454/2023 WITH CA/5894/2024
WITH CA/5895/2024**

1. Shardul Shamprasad Dev, **...Appellants**
Age-40 years, Occu-Advocate,
2. Meera Shamprasad Dev,
Age-70 years, Occu-Housewife,
3. Shamprasad Vishwanath Dev,
Age-75 years, Occu-Advocate

All are R/o. Vivekanand Nagar,
Behind Shri Ram Mandir,
Kopargaon, Tq. Kopargaon,

VERSUS

1. Manjiri Shardul Dev, **...Respondents**
Age-33 years, Occu-Advocate
R/o. Chincholi, Tq. Rahuri,
Dist. Ahmednagar
2. Pallavi Shailesh Kulkarni,
Age-43 years, Occu-Business,
C/o. Vasanti Upadhye, 114,
Umashankar Co.Op. Society,
Near Dashbhuj Ganpati,
First Floor, Flat NO.2
Pune, Dist. Pune

3. Amol Manohar Achari,
Age-32 yeas, Occu-Nil,
R/o. Sanjivan Kamgar Vasahat,
Sahajanand Nagar, Post Shingnapur,
Tq. Kopargaon, Dist. Ahmednagar.

Mr. Rajendra Deshmukh, Senior Advocate i/b Mr. Sanket S. Kulkarni, Advocate for the appellants

Mrs. M. L. Sangit, h/f Mr. L. V. Sangit, Advocate for respondent No.1

Mr. Ajay T. Kanawade, Advocate for respondent No.2

Mr. A. S. Gandhi, Advocate for respondent No.3

CORAM : KISHORE C. SANT, J.

RESERVED ON : 16th JULY, 2024

PRONOUNCED ON : 16th OCTOBER, 2024

JUDGMENT

1. Since the matter is in respect of custody of the child, the matter is taken up for final disposal at the stage of admission by consent of the parties.

2. This court has gone through the record and proceedings.

3. This appeal arises out of the judgment and order

passed by the learned District Court, Kopargaon dated 19-05-2023 passed in Civil Misc. Application No.3/2020. Appellant Nos. 1 to 3 are the original respondents. Respondent No.1 is the original applicant. Respondent No.2 is the sister of appellant No.1- Orig. Respondent No.3 and daughter of appellant Nos.2 and 3. Respondent No.3 is the original respondent No.5 who was working as driver with the appellants.

4. By way of application, respondent No.1-mother sought custody of the minor son Riyansh and for declaration that she is guardian of the person of the minor and consequential reliefs. The learned District Judge was pleased to allow the application by way of impugned judgment and order directing to hand over the custody of the child to his mother declaring her as guardian of person of the minor. Further incidental directions were given for handing over all the documents in respect of minor. Respondent to make arrangement for studying in the school of the minor. The Driver is directed not to interfere with the person of the minor in any

manner. For the purpose of convenience parties are referred to as per their relations with the child. Relationship of the child with the parties is as : Appellant No.1 is father of the child Riyansh. Respondent No.1 is the mother. Appellant Nos. 2 and 3 are grand-parents. Respondent No.2 is Paternal Aunt. Respondent No.3 is a driver of family car.

5. Facts giving rise to the proceeding, in short, are as under:-

6. The father and mother of the child are Advocates by profession. The mother is having masters degree in Law. Grand father is also a practicing Lawyer. All the family members are thus educated and enjoying good social status. There are two children namely Riyansh and Raghav born to a couple. Present dispute is about custody of elder son Riyansh. So far as custody of Raghav is concerned, it is with the mother, there is no dispute and there is no application filed by husband for custody of minor Raghav.

7. It is on record that since long relations between father and mother are strained. In 2016, father and grand parents had taken away the child from the mother. She was required to file an application under Section 97 of the Code of Criminal Procedure. In the said proceeding she received custody of minor. Thereafter there was compromise for sometime thereafter, she again went for cohabitation to her matrimonial house. During that period she conceived and delivered younger son. It is the case that she was never treated well by her husband and in-laws. Grand mother is stated to have harassed the mother. Grand father, as per allegations, is having various vices and is lecherous. He has extra-marital relations with other women. Aunt is also staying with the family of the grand parent,s though married. It is alleged that she also instigates the grand parents. So far as driver is concerned, it is alleged that he is a person against whom various criminal cases were filed and is employed only to keep watch on the mother.

8. Because of ill-treatment and harassment mother of child also had lodged even police complaint as Crime No.368/2016 for the offences punishable under Sections 323, 504, 506 of the Indian Penal Code. One more case was filed under Sections 498-A.

9. Further it is the case that since beginning because of the strained relations there were attempts to see that the child does not remain with the mother. On 12-12-2019, the mother was driven out of the house with younger son Raghav. Since then the custody of the Riyansh is with the father and grand parents.

10. The mother therefore, filed the proceeding on 21-01-2020. It is alleged in the application that father is not treating the child well. Grand father is a patient of cancer and was required to be operated and is being treated for the said disease for quite sometime. Aunt though married, stays with her parents. As such there is no conducive atmosphere in the house.

It is further stated that since the younger child is with the mother, it is in the interest of the child to have his custody with the mother.

11. The matter proceeded further. For long time the husband did not file written statement. He did not obey the interim orders of the court in respect of the temporary custody of the child or right of education and therefore, his right to defend was struck down. This order attained finality till the Hon'ble Supreme Court. Thus, there is no written statement on record by the husband. Father-in-law though filed written statement. He has adopted written statement of father.

12. Though the proceeding is stated to be summary proceeding, it took three and half years to decide the proceeding. There are more than **650** exhibits. There were **ten** writ petitions filed in the High Court at various stages challenging various orders. Out of those, **nine** were filed by the father and only one was filed by the mother. There was

applications filed praying for allowing the appellants to examine twelve witnesses. However, said application was rejected. This court, thereafter, allowed to examine 4 witnesses out of the said list by giving it timeline. Thus, in said timeline, some of the witness are examined.

13. Pending this appeal, two applications are filed bearing Nos.5894/2024 and 5895/2024 in June, 2024. In application No. 5894/2024 prayer is made to refer the matter for mediation and counseling and to call for detailed report and requesting this court to have interaction with the child. Civil Application No.5895/2024 is filed praying that this court be pleased to interact with the child before passing any order. All these applications where prayer is made to give the representation to the child and to consider various guidelines in respect of the child welfare. This court in view of civil applications had directed the parties to have interaction with each other. However the parties intimated to the court that no settlement could be arrived at. This court also had interaction

with the couple and then with the child on 15-07-2024.

SUBMISSIONS BY THE APPELLANT:

14. The matter is argued at length. First submission was on the point of jurisdiction. It is argued that the District Court, Kopergaon had no jurisdiction to decide the matter in view of the Family Courts Act. It is submitted that the child should have been given facilities of counsellor, mediator before the passing the order. Since the application was filed in the District Court child is deprived of all these facilities. Other argument was that this court to look to the material on record in the form of CCTV footage and DVD on record. It is argued that during the proceeding right of defense of father was struck down. The court committed error in not considering even written statement of the grandfather as he had adopted the written statement of the father. Many grounds thus taken in the written statement by the grandfather were not considered and thus all the parties are deprived of giving the evidence on all the points. The learned trial court has not considered the defense in view of the striking of defense which resulted in miscarriage of justice. The report of

counsellor was not shown to the parties and therefore parties are deprived of proper opportunity to address the court on the said report. Mother had lodged various proceedings just to harass the father and in-laws. Interaction report was kept in sealed cover. The court has not considered the academic and other progress of the child including extra curricular activities. The court did not have sufficient interaction with the child. The court has unnecessarily relied upon the diary written by the grandmother in which various things are written against the grandfather . Evidence of many witnesses is not considered. No proper representation was given to the child. Though the father had produced on record DVR of CCTV footage the same was not considered. Though on some occasions the mother failed to attend the court for visitation of child still that is not considered. No proper child plan was submitted by the mother. It was necessary to seek assistance of child expert to assess understanding and mental ability of the child. Guidelines prepared for family courts by this court are not followed. There is no panel of child independent lawyers and thus the child is

deprived of opportunity to get representation to him by such lawyers. Issues were not properly framed. No opportunity was given to the husband to cross-examine the witnesses. The court did not exhibit DVR and hard disc produced before it with Exhs. 432 & 384. The court acted in unfair manner by not deciding the application in timely manner. There is no sufficient evidence on record to show that welfare of the child would be taken care better manner by the mother still her application is allowed.

15. The learned advocate for the appellant relied upon following judgments :

- a] Nil Ratan Kundu and Anr Vs Abhijit Kundu
(2008) 11 SCR 111
- b] Rosy Jacob Vs Jacob A Chakramakl 1973 STPL 1188 SC
- c] Lahari Sakhamuri Vs Sobhan Kodali (2019)5 SCR 240
- d] Mausami Moitra Ganguli Vs Jayant Ganguli
2008 STPL 12182 SC
- e] Nanda Dulal Pradhan and Anr Vs Dibakar Pradhan and
Anr (2022) 7 SCR 483
- f] Hemant Gupta Vs Ramsubramanian
2000 LivLaw (SC) 533
- g] Smt. Mamoni Pal (Biswas) Vs Sri Samir Pal
FMAT 107 of 2022 with CAN 1 of 2022 (Calcutta HC)
- h] Selvaraj Vs Revathi 2023 INSC 1054 (SC)
- i] DSG Vs AKG (2019) 15 SCR 144
- j] Mamta Alias Anju Vs Ashok Jagannath Bharuka
(2005) 12 SCC 452

k] Archana W/o. Satyajit Jadhav Vs Satyajiut S/o. Suryabhan Jadhav 2022 (4) ALL MR 349

SUBMISSIONS BY RESPONDENT NO.1

16. As against this, learned advocate for the respondent vehemently argued that the appellants have not brought basic facts to the notice of this court. So far as jurisdiction is concerned, he submits that there is no notification issued under Section 3 of the Family Courts Act extending jurisdiction to Kopergaon. He submits that now taking ground of jurisdiction is exactly opposite to the stand taken by the appellant before the District Court in transfer application filed by the mother bearing No.85/2020 for transfer of the matter from Kopergaon to Ahmednagar Court in which the father and grandfather specifically opposed the application stating that Kopergaon court alone has jurisdiction. That application was rejected with costs of Rs.3000/-. Thus, argument so far as jurisdiction is concerned, he submits that the same cannot be considered in view of absence of notification and secondly, that the father himself had stated that it is only Kopergaon Court which has jurisdiction.

The jurisdiction is with the District Judge in view of section 9 of the Act. So far as interaction with the child is concerned, he submits that the court had interacted with the child and it is only thereafter, the court has passed an order. So far as the right of defense is concerned, the defense was struck down because of disobedience by the father of various orders passed by the court and for his objectionable behavior in the Court. There are eleven instances recorded of such disobedience and it is only thereafter an order was passed on Exh.236, 242, 246. The application filed for restoration of defense was also rejected and that rejection order was maintained till the Hon'ble Supreme Court. Even the application raising the ground of jurisdiction was filed at Exh.575 after two years. This shows that there are lack of bonafides on the part of the father. The defense is tried to be taken through father-in-law and driver who are in a way not connected directly with the custody of the child. The application was also resisted by the driver who is totally unconnected with the issue. When mother was staying at the matrimonial house all care was taken only by her. The medical expenses of child etc.

are also born by the mother. There is evidence in the form of whatsapp messages on record showing father had sent the messages to the brother of mother demanding school fee for the minor. In spite of other opportunities, the husband could not avail this opportunity in the court, now he can not make complaint about fair trial and therefore, grounds of fair trial is without substance.

17. It is only because of filing of various applications, and after the order was passed challenging the order in this court in writ petition proceeding was delayed. He submits that wish of the child is not the sole criteria while deciding the matter of the custody of child. He submits that mediation was done on several occasions. There is also an order referring the parties to Sukun Committee. Settlement talks were held even before the Sukun Committee. In writ petition No.14587/2002 between the parties mediation was done even in this court. The court has discussed about the child interaction in the judgment. He lastly submits that though father and grandfather have filed

on record voluminous record containing eight volumes deliberately order passed below Exh.236, 242 and 246 are not incorporated. In common order on these applications the court has clearly observed the conduct of the parties in its order dated 21-09-2022, in which husband was required to be strictly directed to comply with the interim orders below Exh.29 and 49. He has deliberately not produced an order passed below Exh.258 that was filed for restoration of defense. He thus, submits that the appellants have not come with clean hands to this court. He prays for dismissal of the appeal.

18. The learned advocate for the respondent No.1 has relied upon the judgment reported in AIR 2009 SC 557 in the case of Gaurav Nagpal Vs Sumedha Nagpal.

19. No arguments are advanced on behalf of respondent Nos. 2 and 3.

DISCUSSION

20. So far as the judgment in the case of Nil Ratan

Kundu and Anr (supra) is concerned, it was a case wherein the father of the child was seeking the custody of minor who was with the grand parent i.e. parents of mother who died. In that case the court held that custody always should be with father being natural guardian. In that case father was facing criminal trial for section 498A and 304 of the IPC facts are thus not applicable to the present case.

21. In the case of Rosy Jacob (supra) the court held that main consideration in the matter of custody is welfare of the child and not right of the parents. The court held that hyper technicalities should not be allowed to deprive the guardian of necessary assistance from the court in effectively discharging his duties and obligations towards his ward. In the case of Lahari Sakhamuri (Supra) the Hon'ble Apex Court has considered the expression 'best interest of child' which is always considered to be of paramount consideration. Para 49 reads as follows:

49. The crucial factors which have to be kept in mind by the courts for gauging the welfare of the children equally for the parent's can be inter alia, delineated, such as (1) maturity

and judgmental; (2) mental stability; (3) ability to provide access to schools; (4) moral character; (5) ability to provide continuing involvement in the community; (6) financial sufficiency and last but not the least the factors involving relationship with the child, as opposed to characteristics of the parent as in individual.

In para No.50 it is held that child has a right to be taken seriously and to be treated with tenderness and respect.

22. In the case of Mausami Moitra Ganguli (supra) in that case the child was living with the father when mother left home leaving him at the age of 3 years. When court interacted with the child he showed reluctance to go with mother. Father had good financial resources and time for child. Considering that stability and security of the child in that case custody was not disturbed. There court considered dislocation of the child at that stage where he had grown up in sufficiently good surroundings, holding that it would not only impede his schooling, but may also cause emotional strain and depression. In the present case, it is not the case that the mother is not in a

position to take care of the child & distance between house is not more than 25 km and thus there is no case that shifting of child would cause impediment in his education or over all progress.

23. In the case of Nanda Dulal Pradhan (supra) and Smt. Momani Pal (Biswas) (supra) the conduct of the wife before the learned court held to be far from being satisfactory and judgment was passed. In case of Selvaraj (Supra) in Para No. 7 the court refused to give the custody to the mother. It was observed that child not only refused to go with the mother, but refused even to talk with her. In this case, there is no case that the child is not even ready to come with the mother. On the contrary when he visits he told that she behaved well. In the case of DSG (supra) on that this court finds that this judgment is not applicable. So far as Mamta @ Anju (supra) the court considered that in the matter of the custody the court should take into count wishes of the children concerned and assess the psychological impact, if any, on the change in custody after

obtaining the opinion of a child psychiatrist or a child welfare worker. In this case, distance between house of husband and wife is not mentioned. In the present case there is no likely to be change of atmosphere drastically. In the judgment of Archana Jadhav (supra) the court had refused to give custody to the mother. So far as the judgment in the case of Anjali Kappor Vs Rajiv Baijal the Hon'ble Apex Court in the facts of that case held that ordinarily under the Act, natural guardian of the child have the right to the custody of the child.

**CONSIDERATION OF JUDGMENT RELIED UPON BY THE
LEARNED ADVOCATE FOR THE RESPONDENT NO.1**

24. The Hon'ble Apex court in the case of Gaurav Nagpal (supra) observed that all the negative facts have been fed into the the child's mind against the respondents. It was observed that if sufficient time is given child would overcome any tutored prejudice. The court in the said case observed the conduct of the appellant which was noted by the local Commissioner of Police in the report wherein it is revealed that the child could meet the

mother only with the help of duty Magistrate. On recording all the material facts the court held that the moral and ethical welfare of the child must also weigh with the court as well as it is physical well being. It is held that provisions of special statutes will not stand in the way of the court exercising his parens patriae jurisdiction arising in such cases. In that case father of the child had flouted many orders and managed to keep the custody of the child. In that view it was held that such person cannot be a beneficiary of his own wrongs. So far as expenses is concerned it is held that father can be asked to pay education expenses of the child in addition to the maintenance. The court was taken care of the visitation of the father in the said judgment. This court finds that this judgment is squarely applicable to the present case. Considering the orders passed by the learned trial court in common order below Exh.236, 242, 246 and further orders below Exh.258.

25. The parameters of consideration are now well settled and that is welfare of the child. Thus now in this case court need

to see as to whose custody can be said to be proper custody. This court has gone through the record and also interacted with the child on 15-07-2024. So far as interaction is concerned, it is obvious that child is in the custody of the father since December, 2019. Very naturally child expressed a desire to stay with the father. During the interaction this court asked him questions to assess the ability to answer the questions. The child is found to be very brilliant and involved in various activities in the school. Asking about his mother, he shown disinclination to go with the mother. What surprised this court is the manner in which he answered the questions and words used by him towards his mother, it is clear that such expressions cannot come from child of nine years of age. He mentioned that his mother failed to take proper care of the child. She does not act as responsible mother. Mother avoids to do work in the house. This court asked as to whether he can tell any single good thing about his mother. There is not a single good quality in the mother, is his reply. All these clearly show that he is tutored. So far as the mother is concerned, he further told that mother ill-treated him. This is on

the background that when mother left, he was hardly of five years of age. On asking about Raghav his younger brother, he told that he loves him.

26. Child does not know his own welfare. The minors are prone to tutorship. By now it is well settled that whether any parents have any criminal antecedents, whether there are dispute in the family to shoulder the responsibility of the child. Whether the child would get the proper atmosphere necessary to grow-up. Whether the child would get love and affection from the members of the family and whether he would get proper opportunity to take education and pursue better carrier.

27. Further this court noticed that it is the case of the father that handing over the custody is not in the interest of the child as mother is not in a position to take care of the child and at the same time, he has not taken any pains to seek custody of the younger son. If at all he was concerned about welfare of the child, he would have certainly asked for custody of other child.

While considering the welfare of the child he needs care, love and affection of mother & father, as well company of sibling for his emotional development. On this aspect also this court finds that it is in the interest of child to have company of his younger sibling.

28. So far as mediation is concerned, the mediation was done during the proceeding before the learned Civil Judge Senior Division, Kopargaon. Looking to the various orders and urgencies, the trial court even took up the matter even in vacation. All things shows that an order passed on 19-05-2023, submission of not giving opportunities is against the record. The submission that wife did not avail the visitation right is also against record. In the order passed by the court, it is specifically observed that whenever there was a visit of child to his mother, father did not allow her to meet the child with peace. He always accompanied the child and did not let him go with the mother even for a minute. In one of the orders the court observed that when mother had taken the child in the court premises, he

deputed one photographer with a camera who was continuously shooting the mother and the child. Thus, this court is persuaded to believe that the husband even for a minute is not allowing the child to see mother freely. About this behavior the learned trial court has recorded observations. However, no submissions are made on such observation by the appellant.

29. In a writ petition filed challenging the order of striking out of the defense a rejection of an application for restoration of the striking out of the defense, the said writ petition was dismissed. As submitted said order was confirmed even in the Supreme Court. It is still argued that the father did not get proper opportunity. Though other grounds are raised that the complaints filed by the mother were frivolous, this court does not find it material to consider it while considering this appeal. Though there are various other allegations made by the parties against each other, this court has to only see welfare of the child.

30. So far as the submission about not give proper representation to the child is concerned, on asking what exact assistance be given. It is stated that some independent lawyers should have been appointed to represent the child by the court. This submissions was made on the basis of some guidelines prepared. This court finds that no prejudice is pointed out by the appellants that caused to any of the parties thereby.

31. In the matter of custody wish of the child is only one of the considerations. Here decision of handing over the custody appears to be hard decision however, it cannot be avoided on that count as held by the Hon'ble Apex court. Further conduct of the appellants is pointed out that though a caveat was filed against the impugned judgment still ex-parte interim order was obtained by suppressing the fact of filing of the caveat. It is also clear that father has not obeyed the order directing the visitation right. This is more apparent looking to the fact that he happens to be a practicing lawyer. In spite of participating in the proceeding and in spite of justifying jurisdiction with the

Kopargaon Court, he has still taken ground in this appeal of jurisdiction. This also needs to be taken into seriously consideration.

32. Now coming to the question of welfare of the child, it is already noted that both the parents of the child are well educated and are practicing advocates. Though it is the case of the husband that he is having a bungalow at Kopargaon spread on a plot of 5000 sq. fts, Kopargaon taluka place where presently the child is taking education in this school. However, that itself is not ground. Financial position is not only ground while considering the welfare of the child. In the present case mother is also having some good life. She stays with her parent. There is CBSC school which is in the radiation of 5 km of her house where the child can be admitted. Younger son is also with the mother and there is no allegations that he is ill-treated or his proper care is not taken. Giving custody to mother would not be in any case against interest of welfare of the child. Both the parents of the father are disabled because of various ailments.

Grand father is suffering from permanent disease of cancer and was required to be operated and treated for long time. Grand mother is also suffer from various ailments.

33. Considering all above facts and judgments this courts finds that the submissions made on behalf of the appellant so far as jurisdiction is concerned have already been dealt with. The submission does not merit any consideration. From the record it is clear that the appellant though was given many chances, did not produce his witnesses for examination. It is only thereafter, the order was passed, which was challenged before this court. In writ petition this court allowed the prayers of the appellant only to the certain extent and directed to examine 4 witnesses from the said list within stipulated period. All the witnesses were not examined within stipulated period. The appellant now cannot say that the appellant could not get proper opportunity to lead the evidence.

34. After the argument is over, the father-appellant has

given an affidavit to this court stating that he will take care of the child and he should be given an opportunity. This needs to be considered in the background of his earlier conduct. The learned trial court has clearly observed that on more than one occasions said appellant already had given the undertaking to the court. This court also had an occasion to see the conduct of the appellant. This court in the proceeding observed that the appellant does not act as per the undertaking and his tendency to flout the undertaking. Giving such undertaking again may only be an eye wash. The previous conduct of the appellant does not inspire confidence. It clearly appears to be an attempt to further prolong the litigation. This court thus is not in a position to persuade itself to believe on such an undertaking once again.

35. So far as interaction with the child is concerned, this court interacted with the child. This court has seen DVD containing some photos and videos of the child, where he is seen performing in the school activities. Photographs show that he has received many certificates and awards at the school level in

various competitions. In some of the videos he is seen chanting Mantras, Strotras and shlokas. It is already observed that child is brilliant child and there is no doubt about. It needs to be seen that for first 1 to 5 years the child was in the company of the mother which are yeras of formation of various abilities, learning skills etc.

36. Coming to the aspect of the welfare of the child, this court finds that the mother is also equally settled in the life if not more than the husband. She is also having source of income. She resides with her parents. She can devote her time to the child. The younger child is staying with the mother that would be again to the advantage of the child. So far as taking care of the education etc is concerned, it has already come on record that father of the child had demanded the amount for school fee etc by sending messages to the brother of the mother. Under these circumstances this court hardly believes that father is the person who is taking care of education. It is seen that husband is making desperate attempts to keep custody of the child with

him. About behavior observed by the learned trial court no comments are offered or submissions are made by the appellant. The observations of the court shows that he did not allow the child to meet his mother freely. On some occasions he has created scene in the court as observed by the trial court.

37. It is rightly pointed by the learned advocate for the respondents that though the appellant has prepared paper book and compilation in 12 volumes. He has not annexed two orders which are passed by the learned District Judge observing his conduct before the learned trial court.

38. It is observed by the learned trial court that the matter was prolonged unnecessarily. Right of defense of father was struck off. Though there is written statements of grandfather on record, it needs to be noted that the custody of the child is matter between the mother and the father and it is not for other relatives.

39. While considering the appeal this court has also considered the applications. The pending applications are thus required to be disposed off in view of the disposal of the appeal.

40. Considering overall material and record this court finds that it is in the interest of child to hand over his custody to the mother. Arrangement can be made to see that child would get opportunity to see his father as well. Hence, the following order:

ORDER

A] The appeal stands dismissed with cost of Rs.1 lakh.

B] The custody of the child be handed over to the mother after end of his first session of the school before Diwali, 2024.

C] In Diwali vacation the child may stay with the father for one week, after Diwali.

D] Father would be entitled to custody of the child in every Diwali, Christmas and Summer vacation to an extent of 50% of such vacation.

E] Presently the child is taking education at Kopargaon. So the mother would make an arrangement to reach the child to the school and take back. After end of academic year 2024-2025 the child can be admitted to another school near the house of mother.

F] Every alternate Saturday and Sunday the child will stay with the father. The child would go to father's home after school is over on alternate Saturday and on Sunday evening the father will handover the child to the mother at her residence.

G] With this, appeal stands disposed off.

H] Pending applications stand disposed off.

[KISHORE C. SANT, J.]

LATER ON:

1. At this stage the learned advocate for the appellants prays for continuation of interim relief. The said request is heavily opposed by the learned advocate for the respondents.
2. This court has found that since there is interim relief, the same be continued for six weeks from today with a condition that in the Diwali Vacation the child would stay with the mother.
3. The cost to be deposited or be paid to the wife as she is taking the care of the child within two weeks from today.

[KISHORE C. SANT, J.]

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