

FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4289 OF 2015

Office Notes, Office
memorandum of Coram,
appearance, Court's
orders or directions &
Registrar's orders.

Court's or
Judge's orders.

Mr. S.S. Shah for the petitioner.
Mr. Priyal G. Sardu for the respondent.

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CORAM : M. S. SONAK, J.
DATE : 18th NOVEMBER, 2015.

P.C. :-

1. Not on board. Upon production taken on board.

2. The challenge in this petition is to the order dated 30/03/2015 by which the Principal Judge of the Family Court at Solapur has declined the petitioner leave to amend his written statement and introduce the relief of restitution of conjugal rights.

2. The application for amendment was made at a stage when the trial had already commenced. The impugned order records that the amendment if allowed would virtually amount to permitting the petitioner, at this stage, to raise a counter claim when there are hardly any pleadings

in support of the same.

3. The inference raised by the Family Court that the application seeking to amend the written statement at this belated stage, was to delay the proceedings cannot be regarded as uncalled for. There is no jurisdictional error in the making of the impugned order. Accordingly, there is no reason to entertain this petition and therefore the same is dismissed.

4. Mr. Shah expressed apprehension that the dismissal of this petition might be construed as a bar to the petitioner claiming restitution of conjugal rights by way of a separate suit. There is no basis for such apprehension. The Family Court has declined leave to amend the written statement at belated stage of the suit. The said order has been upheld by this Court. If the petitioner is otherwise entitled in law to claim restitution of conjugal rights, there is nothing either in the order of the Family Court or this order which will come in the way of the petitioner instituting for fresh suit in that regard.

(M.S. SONAK, J.)