

FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1503 OF 2016

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

Court's or
Judge's orders.

Mr. Sahil Mahajan for the petitioner.

Mr. Korgaonkar (party in person) for the respondent.

.....

CORAM : M. S. SONAK, J.

DATE : 03.02.2016.

P.C. :-

1. Not on board. Upon production taken on board.
2. There is no necessity to interfere with the impugned order dated 19/01/2016. The Family Court, by its order dated 28/10/2014 had issued a witness summons. Thereafter, the Family Court modified the said order on 27/01/2015. The respondents instituted Writ Petition No. 1374 of 2015 to challenge the order dated 27/01/2015.
3. This court on 11/12/2015, made the following orders in the Writ Petition No. 1374 of 2015:

1) *Heard Mr. Korgaonkar, Petitioner in person and learned counsel for the Respondent.*

2) *Rule.*

3) *There shall be a stay on the order dated 27 January 2015 pending the hearing and final disposal of this petition. The reason for grant of such relief is that the Family Court, earlier, had issued witness summons to the Manager, HDFC Bank Vasai to depose in respect of account bearing No.0381000086142, wherein the Respondents are the account holders. The Respondent No.1, wife of the Petitioner, is the primary account holder*

and Respondent No.2, father of Respondent No.1, is the secondary account holder. By the impugned order, intervention by Respondent No.2 is not permitted. However, the witness, i.e., Manager of the HDFC Bank is directed to disclose the salary received by the Respondent No.1 through her employer and other monies received by her, by any other means. In effect, this means that the witness has been virtually refrained from disclosing all transactions in connection with the aforesaid account number. The impugned order, has virtually set at naught the relief which was granted by the Family Court by its earlier order. Based upon the apprehension vaguely expressed by the Respondent No.2 that the Petitioner might misuse the information in connection with the transactions of Respondent No.2, such an order could not have been made. Hence, stay.

4) However, it is clarified that the proceedings in Petition No. A-2379 of 2008, should proceed, particularly as there are directions for expeditious disposal of this petition already issued. This is clarified, as neither of the parties are to be permitted to seek adjournments in the matter, on the mere ground that the present petition is pending.

5) All concerned to act on the basis of authenticated copy of this order.

4. Since this court has stayed the order dated 27/01/2015 obviously, the Family court was justified in re-issuing the summons as per order dated 18/10/2014. There is no jurisdictional error. In fact the Family Court acted consistent the orders made by this court.

5. The learned counsel for the petitioner however submits that upon issuance of fresh summons as has been done by the impugned order dated 19/01/2015 Writ Petition No. 1374 of 2015 will virtually rendered infructuous. There is no basis to contend this. This is because if Writ Petition No. 1374 of 2015 is ultimately dismissed and the interim order there in is vacated proper orders can always be made for the

parties to neutralise the effect of the interim order. In such a situation this court can even consider whether evidence of the witness, in pursuance of the summons now issued by the impugned order dated 19/01/2016, can be entirely struck off the record. However, there is no reason to interfere with the impugned order.

6. Therefore, this petition is dismissed. Place the Writ Petition No. 1374 of 2015 for final disposal on 26/02/2016 on supplementary board at 03.00 pm.

(M.S. SONAK, J.)