

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

WRIT PETITION NO. 10273 OF 2012

Bhalchandra D. Korgaonkar

.. Petitioner

Vs.

Chitra Vasant Shirsat

.. Respondent

.....

None present for the petitioner.
None present for the respondent.

.....

CORAM : M.S. SONAK, J.

DATE : AUGUST 26, 2016.

P.C. :

None present. The petitioner is not present in the Court today.

2. Perused the petition and the records. By this petition, the petitioner questions the order dated 1st September, 2012, which dismissed his application at Exh.107 seeking leave to withdraw Consent Terms dated 08.12.2008.

3. In the impugned order, it is observed by the Family Court that on the basis of the Consent Terms, an order has already been made. Accordingly, it will be impermissible at this stage to permit withdrawal of the Consent Terms. If leave is granted to withdraw the Consent Terms, the same might probably require recall of the order made on the basis of such Consent Terms. Ordinarily, such a course of action cannot therefore

be permitted, unless exceptional circumstances are made out.

4. The petitioner seeks to withdraw the Consent Terms primarily on the ground that the respondent-wife is not complying with the terms thereof and obstacles are created in the matter of grant of access to the minor child. The impugned order has itself observed that if there is any non-compliance, it is open to the petitioner to take steps available under the law. However, that by itself is no ground to seek leave to withdraw the Consent Terms which have already been acted upon.

5. That apart, it appears that the main matter is pending and the Consent Terms and the order made thereon mainly relate to the interim arrangement, pending the disposal of the main matter. Issues with regard to custody, access, maintenance by their very nature, are never final. It is always permissible to the parties to seek variations, no doubt, upon making out an appropriate case and the demonstrating change in circumstances. In such matters of access or custody, the paramount interest of the child is the main factor which is required to be taken into consideration. The impugned order, therefore, neither suffers from any jurisdictional error nor can it be said that the petitioner is left without any remedy to seek appropriate reliefs, if case is made out for grant of the same.

6. With the observations as aforesaid, this petition is disposed of.
7. All concerned to act on the basis of authenticated copy of this order.

(M.S. SONAK, J.)