

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

WRIT PETITION NO. 3430 OF 2016

Rahul s/o Lobhaji Shelke
age 28 years, occ. education
r/o H.No. 4/31/1800, Indira Nagar
Near Sutgirani, Garkheda Parisar
Aurangabad.

.. PETITIONER

VERSUS

Sow. Sonali w/o Rahul Shelke
age 24 years, occ. household
r/o c/o Smt. Sakhubai shivdas Pulujkar
at Pachod, Shivaji Nagar, Tq. Paithan
Dist. Aurangabad.

.. RESPONDENT

Mr. R.D. Awasarmol, advocate for petitioner.
Mr. S.S. Thombre, advocate for respondent.

=====

**CORAM : S. B. SHUKRE, J.
DATE : 19th JANUARY, 2017.**

ORAL JUDGMENT :

1. Heard.
2. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.
3. On perusal of order dated 06.02.2016, which is to the effect that "Considering the pursis the petition for restitution of conjugal rights stands withdrawn, however, the respondent has filed counter claim and therefore, the said counter claim will subsist", the issues framed on 06.02.2016 by the learned Family Court requiring the petitioner to prove his case as regards entitlement to seek a decree for restitution of conjugal rights, appear to be

the result of the decision mechanically arrived at by the Family Court. Such decision, running counter to the earlier decision cannot be permitted to stand on the record of the case.

4. In the circumstances, the issues framed by the Family Court on 06.02.2016 are hereby quashed and set aside and, it is directed that fresh issues shall be framed by the Family Court taking into consideration the material prepositions of fact and law giving rise to the dispute between the parties. The parties are permitted to furnish draft issues. The learned Judge of the Family Court shall decide the petition for dissolution of marriage, expeditiously. Writ petition is disposed of. No costs. Rule made absolute in the above terms.

(S. B. SHUKRE)
JUDGE

dyb