

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Appeal Against Order No.33 of 2011

(Bank of Baroda vs. Smt. Usha wd/o Ramanlal Chandak & others)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri C.S. Samudra, Advocate for the Appellant.

CORAM : S.M. MODAK, J.
DATE : 20th OCTOBER, 2021.

Heard the learned Advocate for the appellant-defendant
No.12-Bank of Baroda.

02] The appellant has preferred an appeal against the order dated 24/12/2010 passed below Exh.6 in Special Civil Suit No.15/2010. As per the said order, defendant Nos.5 to 9 & 12 were restrained from creating third party interest in respect of properties mentioned therein. The present respondent No.1 has instituted that suit against the present respondent Nos.2 to 12 and the present appellant. The said suit was for partition by metes and bounds and for setting aside alienation. The plaintiff had come with a grievance that defendant Nos.1 & 5 have taken a loan from Bank of Baroda by playing a fraud on other members of the family. The plaintiff also got a knowledge that the suit property was kept as a security for repayment of loan with defendant Nos.12-Bank of Baroda. The plaintiff apprehended that under the garb of exercising the powers under the Secularization & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, defendant No.12 was likely to part away with the property in favour of the purchasers, that is why, pending suit, temporary injunction was being asked for and it was granted.

03] This Appeal Against Order was also tagged to bunch of matters, when the Division Bench of this Court has heard the connected matters. Vide order dated 25/03/2021, issues were answered. During pendency of this proceedings, it is submitted that the borrowers have repaid all the dues of Bank of Baroda and now they do not owe any amount. It is also submitted that the plaintiff on the one hand and defendant Nos.1 to 11 on the other hand have settled the dispute and the plaintiff has withdrawn the suit on 23/07/2010.

04] The learned Advocate for the appellant has also received necessary instructions from Bank of Baroda. Copy of that letter dated 14/12/2011 sent by Bank of Baroda to the learned Advocate for the appellant is shown to me. Its photocopy is taken on record and marked as Annexure-X.

05] So, in view of the withdrawal of the suit, the appellant do not want to prosecute this appeal any more. No one has appeared on behalf of the respondents. In view of the above, the appeal stands withdrawn as not pressed. The same is disposed of accordingly.

JUDGE

**sandesh*