

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

APPEAL AGAINST ORDER NO.34/2019

Smt. Prabha Krishnakumar Karnani Vs. Smt. Jaishree wd/o. Purushottam Chandak and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr. S. S. Sitani, Advocate for the Appellant.
Mr. S. N. Kumar, Advocate for Respondent No.6.

CORAM : AMIT B. BORKAR, J.
DATED : 23rd AUGUST, 2022.

. The present appeal arises out of an application filed under Order 39 Rule 1 and 2 of the Code of Civil Procedure in an appeal filed under Section 96 of the Code of Civil Procedure.

2. The appellant is original plaintiff, who had filed suit for partition, declaration and injunction against the co-sharers and also against the secured creditor. In the said suit, an application filed under Order 7 Rule 11 of the Code of Civil Procedure had been allowed. In addition, the application for temporary injunction in the suit was also rejected. The plaintiff aggrieved thereby filed Regular Civil Appeal under Section 96 wherein the appellant filed an application for temporary injunction seeking following two reliefs :

“(1) Restrain the defendants from creating third party interest in the suit properties till the decision of the present appeal.

- (2) Restrain the defendant no.6 from disposing the apartment no.103 at mitrukunj by way of auction to the extent of the share of the present appellant till the decision of the present appeal.”

3. The Appellate Court by impugned order rejected the application for temporary injunction. Aggrieved thereby, the plaintiff has filed present appeal from order.

4. This Court by order dated 19.08.2019, issued notice to respondents and in the meanwhile, the auction, if any, undertaken by the respondent No.6 – Bank, was made subject to further orders in the present appeal.

5. During the pendency of the present appeal, undisputedly, the secured creditor has sold out Apartment No.103, admeasuring 917.49 sq.fts. on the first floor of building known as Mitrakunj.

6. In view of disposal of the property in dispute, nothing remains to be adjudicated in the present appeal. However, clause – 5 of the *ad interim* protection granted to the appellant by order dated 19.08.2019 shall remain in force during pendency of the Regular Civil Appeal No.345/2019.

7. The appeal stands disposed of.

JUDGE