

**HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT
JAIPUR**

S.B. Civil Miscellaneous Application No. 409 / 2015

In

S.B. Civil Misc. Appeal No. 4932/2009

Ram Prasad & Ors

----Appellants

Versus

Gadhiya Alias Girdhari & Ors

----Respondents

Connected With

S.B. Civil Review No. 74 / 2015

Ram Prasad & Ors

----Petitioner

Versus

Gadhiya Alias Girdhari & Ors

----Respondents

For Non Applicant : Mr. Shyam Lal Sharma

For Applicant : Mr. Gopal Sharma is present in person

HON'BLE MR. JUSTICE ALOK SHARMA

Order

23/10/2017

An oral request for marking exception of this Court was made by Gopal Sharma on 18.8.2017. He was directed that a proper application be filed to evaluate the reasons for seeking an exception of this Court.

This application was then filed stating that in S.B. Civil First Appeal No. 154/1997 titled New Pink City Grih Nirman Shahakari Samiti Limited Versus Jamnya and Others listed before this Court on 16.8.2013, where the applicant Gopal Sharma had appeared in person apparently for his father Govinda – the

respondent therein, this Court had directed that the matter be put up before another Bench. It has also been submitted that in S.B. Civil Writ Petition No. 4448/2010 titled Gopal Sharma Versus JDA Appellate Tribunal and Others listed before this Court on 7.7.2017, this Court had directed that the said petition be put up before the appropriate Bench. Mr. Gopal Sharma appearing in person in support of the application submitted that this Court having marked exception in the two matters listed before this Court in which the applicant appeared, this civil misc. application no. 409/2015 in S.B. Civil Misc. Appeal No. 4932/2009 also be marked an exception of this Court and be referred to another Bench.

I am of the considered view that this application is indicative of mischief of Gopal Sharma who seeks to choose his own judge by avoiding this Bench. For one, the earlier orders to which reference has been made in the application were passed by this Court in different contexts and appear to be deliberately misconstrued and misinterpreted. In S.B. Civil First Appeal No. 154/1997 titled New Pink City Grih Nirman Shahakari Samiti Limited Versus Jamnya and Others in which the applicant Gopal Sharma appeared on 16.8.2013, this Court indeed directed it to be listed before another Bench for the reason that this Court has consistently been marking exception in the matters where the litigating party in a case to its knowledge is the New Pink City Grih Nirman Shahakari Samiti Limited. The 'exception' in that matter was not marked for reason of Gopal Sharma's appearance. And while passing the order dated 7.7.2017 in S.B. Civil Writ Petition

No. 4448/2010, this Court had only directed that the matter be put up before the “appropriate bench” - that was not an order of ‘exception’ , but apparently the order was passed for the reason that this Court at the relevant time, did not have the roster to hear the matter listed before it – the word “appropriate” in the order entails this construction.

It would be in place to record that hundreds of matters are listed before this Court. Each is taken and decided in the Court’s best understanding. But this Court or any Court for that matter cannot be directly or indirectly put to question by seeking an ‘exception’ and praying that a particular petition not be heard by it. If allowed, it would permit a litigant choosing his judge – a prescription for chaos and mischief also lowering the Court’s dignity and efficacy of its process. Litigants with vested interest in the outcome of the case they are engaged in, cannot be permitted easy insinuations about a court’s impartiality nor can the court shrink from doing its duty on that count. The resulting discomfort from avaricious litigant’s throw of dice seeking to avoid a Bench perceived to be inconvenient is part of the court’s job description from which it can only escape at the cost of the institution. This is a very high cost to pay for a court’s comfort.

I find no force in the application. The application for marking exception is dismissed.

Put up after two months, as prayed for by Mr. Gopal Sharma.

(ALOK SHARMA) J.