

Out today

ITEM NO.19

Court No.5

SECTION XV

S U P R E M E            C O U R T   O F   I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).17774/2012

(From the judgement and order                    dated 07/05/2012 in SBCMA  
No.5257/2012 in SBC 2 nd SA No.5185/2011 in SBCFA No.483/2008 of

The HIGH COURT OF RAJASTHAN AT JAIPUR)

M.C.JAIN(MANAK CHAND JAIN)

Petitioner(s)

VERSUS

JARINA BEGUM &amp; ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T. and prayer for  
interim relief and office report)

Date: 29/05/2012        This Petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN  
HON'BLE MR. JUSTICE DIPAK MISRA  
(VACATION BENCH)

For Petitioner(s)        Mr.    Sushil Kumar Jain,Adv.  
                                  Mr.    Anil Kumar Sablawat,Adv.  
                                  Mr.    S. Shah,Adv.  
                                  Mr.    Puneet Jain,Ad.  
                                  Ms.    Christi Jain,Adv.

For Respondent(s)        Mr.    Ajay Choudhary,Adv.  
                                  Mr.    Vijay Choudhary,Adv.

UPON hearing counsel the Court made the following  
O R D E R

A too serious issue has been raised in  
this matter inspite of the fact that this Court  
has consistently held that Chief Justice is the  
master of the roster and if any court decide  
the matter which has not been assigned to him

2

in the roster by the Chief Justice, the order  
is a nullity.

As is evident from the judgment of this  
Court in State of Rajasthan vs. Prakash Chand  
and Others (1998) 1 SCC 1 and State of Punjab  
vs. Davinder Pal Singh Bhullar and Ors. AIR  
2012 SC 364. In the latter case this Court  
after considering a large number of judgments  
held that the judgment and order passed by the  
division Bench of the Punjab High Court was a  
nullity for the simple reason that the matter  
did not fall in the roster assigned to that  
particular Bench by the Hon'ble Chief Justice.

In the instant matter, it has been pointed out that the matter had been heard by Hon'ble Mr. Justice A and certain orders were passed. Subsequently the matter went before Hon'ble Mr. Justice B, wherein the contempt proceedings were initiated. The parties were directed to file affidavits in the contempt proceedings. In the meanwhile, respondent Nos. 3 and 4, who were the subsequent purchaser of the property and had been restrained to carry out any kind of alteration/modification etc. in the building by the order dated 15.2.2012, moved an application for modification of the said order. Both the applications, that is, contempt proceedings as well as the application for modification have been taken together and had been heard by Hon'ble Mr. Justice B. When these applications were pending before Hon'ble Mr. Justice B, it is alleged that the matter was mentioned on behalf of the said respondents

3

No.3 and 4 before Hon'ble Mr. Justice A and the application for modification was delinked from the contempt proceedings and listed before Hon'ble Mr. Justice A. The impugned order permitting the respondent Nos. 3 and 4 to carry out the repairs has been allowed.

Whatever may be the merit in the case, we are not concerned with. The basic question argued before us that Hon'ble Mr. Justice A did not have jurisdiction to decide the application for modification.

We are not inclined to go into the merit of this case, however, in the fitness of the case, it is desired that the matter be placed before Hon'ble Mr. Justice A and His Lordship is requested to decide taking into consideration the Rajasthan High Court Rules and roster fixed by the Hon'ble Chief Justice as to whether the application for modification ought to have been decided by His Lordship or could have been sent before the appropriate Bench having roster on the issue.

In view of the above, we dispose of the special leave petition without making any observation on merit and request Hon'ble Mr. Justice A to examine the grievance of the petitioner and pass a reasoned order deciding the issue of roster etc. expeditiously.

Copy of the order be given dasti.

4

(O.P. Sharma)  
Court Master

(M.S. Negi)  
Court Master