

01.02.2024

Present : Sh. Pankaj Kumar with Ms. Shruti Sharma, Ld. Counsels
along with Plaintiff.
Sh. Sanjay Kathurira, Ld. Counsel along with defendant.

Heard. Sh. Kumar submits three authorities.

The case of 'Ouster', as pleaded by Sh. Kathuria is on the grounds that the property situate at Geeta Colony, put under partition, by the plaintiff, admittedly an ancestral property and on an oral partition taking place, in the year 2012, the branch of the plaintiff as well as defendant and their mother was allowed/given first and second floor of the property in question and thereafter an oral Agreement entered between the parties on 20.05.2013. The plaintiff was provided with a Flat in Ghaziabad in July 2013, in lieu of second floor of the property and the defendant had paid all the installments with regard to that Flat, therefore, this is a case of 'Ouster' and even partition has already been effected. Even the mother of the parties expired on 02.10.2016. On the other hand, Sh. Kumar, though, does not seriously disputes all these facts but he further submits that the joint/ancestral property was partitioned for the first time on 17.06.2015 and pursuant to that, the branch/family of the parties was allotted with the first and second floor in respect of 50 sq. yards each, (not 100 sq. yards and the other 50 sq. yards of the land went to other co-parceners), and even Relinquishment Deeds were executed by other co-parceners, namely, Sh. Krishan Lal, Sh. Yashpal, Sh. Bhushan Lal, Sh. Suresh Kumar and

Smt. Kiran Ahuja and even by the then family of the parties. He also submits that the father of the parties expired on 02.06.2011 and till then, the parties were carrying on a joint business where differences arose and it was in that scenario that the plaintiff accepted an amount of Rs. Twenty Lakhs for giving up his respective share in the joint business and in the year 2013 purchased the Flat at Ghaziabad by his own by taking a loan for Rs.19.50 Lakhs and the EMI was being financed by the defendant against the amount of Rs. Twenty Lakhs and only some of the EMIs were paid by the defendant leaving the loan only partly satisfied.

Put up on **30.03.2024** for further consideration/clarifications/order.

Parties are directed to submit written arguments with copies to other side in advance and against receipt with the Reader of the Court at least 15 days before the NDOH.

(Sanatan Prasad)
Additional District Judge-02 (East)
Karkardooma Courts/Delhi/01.02.2024