

5 CS 577/22

SACHIN KWATRA Vs. VIKAS KWATRA

30.03.2024

Present : Sh. Mohd. Suhail, Ld. Counsel along with Plaintiff.
Sh. Sanjay Kathuria, Ld. Counsel along with defendant.

It is submitted that written submissions have already been filed on behalf of the parties.

Put up at 4.00pm for orders.

(Sanatan Prasad)
Additional District Judge-02 (East)
Karkardooma Courts/Delhi/30.03.2024

4.00pm

Present : None.

It appears that the Ld. Counsel for the plaintiff has relied on a decision of our own Hon'ble High Court, in CS (OS) No. 1470/2010, DOD : 31.01.2022, in case of **Shailendra Ghai v. Anil Ghai & Ors.**, which goes to lay down :

"...Unless there is a clear case made out by the defendants of Ouster of the plaintiff or the plaintiff himself pleads such ouster, there would be, in fact, no occasion for the plaintiff to pay advalorem fees on the market value of his share, as provided under Section 7(iv)(b) of The Court Fees Act, 1870..."

The Second Order, relied on by the plaintiff, in the case of **Subhanshu Soni v. State of Madhya Pradesh & Ors.**, DOD : **13.02.2023**, is though, not directly related on the 'Ouster' aspect, yet, serves as corollary to the first decision.

There is another decision of Hon'ble Supreme Court of India in Civil Appeal Nos. 2652-2654 of 2013, in the case of **B.R.-Patil v. Tulsa Y.Sawakar and others, DOD : 09.02.2022**, which also reiterates the same principles of law, as complete Code, on the aspect of 'Ouster'.

It is to be noted that the present case is at the pre-trial stage and issues are yet to be framed, in the matter. Hence, I deem it expedient that the question of 'Ouster' can be considered after leading of evidence by the parties, if required at that stage.

Put up on **08.08.2024** for filing of replication before Facilitation Centre with advance copy to other side against acknowledgement, also for admission/denial and framing of issues. Parties/representatives be present in person.

(Sanatan Prasad)
Additional District Judge-02 (East)
Karkardooma Courts/Delhi/30.03.2024