WHAT IS OSTENSIBLE OWNER?

Section 41 of Transfer of Property Act defines ostensible owner.

Ostensible owner is a person who has all the indications of ownership and looks like owner of property but is not the real owner.
In simple words,
A person may have possession and enjoyment of the property and may also have his name entered in the official records but even then he may not be the real owner of that property.

Such situation may arise in case if a person purchases a property in the name of another person then it is called **Benami transaction** and the person in whose name the property is purchased is called as **Benamidar**.
So a Benamidar is an ostensible owner.

This section is applicable only where the transferor is an ostensible owner. But it is difficult to ascertain whether a person is ostensible owner or real owner because he has all the features of real owner except the intention to own the property. So it is for the court to establish whether the transferor was an ostensible owner or not.

Related Case-
Jay Dayal Poddar vs Biwi Hazara AIR 1974
Supreme Court held that the person is ostensible owner or not is a subjective question to be decided on the basis of facts and circumstances.

The burden of proof that a transaction is benami lies on the person who claims that he is the real owner.

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