

**IN THE COURT OF RAVINDER SINGH-I, DISTRICT JUDGE-03,  
EAST DISTRICT, KARKARDOOMA COURTS, DELHI**

**RCA DJ No. 02/2022**

**Manoj Sharma** S/o Late Sh. Tirath Ram Sharma,  
R/o 45, Dayanand Vihar, Delhi-110092 ..... Appellant

Versus

**Ravinder Pal Singh** S/o Shri Arjan Singh  
R/o A-85, East Krishna Nagar, Delhi-110051. ....Respondent

|                        |   |            |
|------------------------|---|------------|
| Appeal filed on        | : | 02.02.2022 |
| Arguments heard on     | : | 29.05.2026 |
| Judgment pronounced on | : | 29.05.2026 |

**JUDGMENT**

**APPEAL U/S 96 C.P.C AGAINST THE IMPUGNED  
JUDGMENT/DECREE DATED 30.11.2021**

1. This judgment shall decide an appeal filed for setting aside the judgment and decree dated 30.11.2021 (hereinafter referred to as impugned judgment) whereby the counter-claim of appellant titled as Ravinder Pal Singh Vs. Manoj Sharma, having Civil Suit No.8873/2016, was dismissed by the Ld. Senior Civil Judge/Rent Controller (East), Karkardooma Courts, Delhi.

2. The respondent/plaintiff Ravinder Pal Singh filed suit for recovery of possession of one hall on the ground floor of the property bearing no. A-85, East Krishna Nagar, New Delhi (hereinafter referred to as the suit property) and arrears of rent against Manoj Sharma, the counterclaimant/defendant.

3. Parties hereto are referred to in this judgment as per their ranks before the Ld. Trial Court.

4. The facts relevant to the disposal of the present appeal are that:

(a). Plaintiff/respondent claimed in his suit that he, along with his brother Devender Pal and Sarabjeet Singh, inducted the defendant as a tenant in the suit property at a monthly rent of Rs. 4,000/- per month w.e.f. 01.11.2008. But the defendant/counterclaimant has not been paying rent since the inception of tenancy, as such, he was in arrears of rent to the tune of Rs. 1,12,000/-. So, he served a legal notice dated 30.09.2010 upon the defendant/counterclaimant, thereby made a demand to pay the arrears of rent and terminated his tenancy also. Despite service of notice, the defendant has failed to comply with the same, so he filed the suit.

5. Defendant/counterclaimant contested the suit by filing his written statement-cum-counter claim. It is pertinent to note that the defendant has amended his written statement-cum-counter claim vide order dated 16.12.2014.

6. Defendant, in his amended written statement-cum counter claim, stated that the plaintiff, along with his two brothers, executed a GPA, thereby giving all the powers to his attorney to sell the property after receiving a full and final consideration amount by cheque dated

13.04.2000. As such, the plaintiff and his brothers have left no right, title, or interest in the suit property since April, 2000. Defendant also stated that he became the exclusive owner of the suit property by virtue of a registered sale deed executed by a competent person to execute the sale deed on 22.01.2008 (wrongly written as 22.01.2002). He had paid the full and final consideration amount as per the sale deed dated 22.01.2008. He also gave his reply to the legal notice of the plaintiff dated 30.09.2010, wherein he cleared all the facts. Hence, the plaintiff has no cause of action to file the suit against him. Defendant also stated that there is no privity of contract between him and the plaintiff, as there was no rent agreement between them. Accordingly, he prayed for dismissal of the suit, and therefore, the defendant, by way of counterclaim, prayed for the following reliefs:

- i. Dismiss the suit of the plaintiff with heavy costs.
- ii. Pass an order and/or direction thereby restraining/directing the plaintiff, his agents, servants, legal heirs, successors and assignees etc. etc. from interfering in the peaceful possession and enjoyment of the property i.e. one hall at ground floor, upto the extent of ceiling level only measuring area 15 ft. X 32 ft. part of property built on plot bearing No.85-A, out of Khasra No.226 situated at the abadi of East Krishna Nagar in the area of Village Karkardooma, Delhi in any manner whatsoever as the defendant is in exclusive possession of the suit property being the absolute owner therefore and be further pleased to restrain the plaintiff from executing any documents of any nature in respect of the suit property in favour of third person which may come in conflict with the title of the defendant and also not to create legal hurdle in the way of defendant in enjoying the suit property and not to create any third party interest.

- iii. Award the cost in favour of the defendant.
- iv. Pass any such other or further order and/or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

7. Plaintiff filed a reply/written statement to the counter-claim of the defendant, stating therein that he and his two brothers, the co-owners of the suit property, had taken a sum of Rs. 3,50,000/- from the defendant in the year 1999 and 2000. They further took a sum of Rs. 1,00,000/- from the defendant, which he given through his partner Rajesh Sardana. Plaintiff further stated that the defendant made the payment of Rs. 2,50,000/- and Rs. 1,00,000/- to him and his brothers vide cheque no.405252 dated 13.10.1999 and a cheque no. 405265 of February, 2000. So, as security of the amount, he and his brothers had executed a GPA and other documents with respect to suit property in favour of Rajesh Sardana. Further, the plaintiff/respondent claimed that he had issued 36 cheques of Rs. 3,500/- each, which includes the principal amount and interest thereon, for repayment of the security amount. Still, the said cheques could not be encashed, and the defendant/counter-claimant served upon them a legal notice dated 29.06.2001 and also filed two cases under section 138 N.I. Act against him and his brothers. Plaintiff/respondent further stated that on payment of the entire amount, the said case was withdrawn by the defendant/ counterclaimant, so the counterclaim of the defendant is not maintainable and therefore, liable to be dismissed.

8. It is pertinent to note that the plaintiff/respondent's suit was dismissed in default vide order dated 14.05.2015 and further he was also

proceeded ex parte in the counterclaim on the same day. Thereafter, the counter-claim of the defendant was separated from the main suit

9. To prove his counterclaim, the defendant/counter-claimant examined two witnesses i.e., himself as DW1 and the Record-keeper Ram Tirath, from the office of Sub-Registrar VIII, Geeta Colony, Delhi as DW2.

10. DW1 led his evidence on affidavit as Ex. DW1/A. He generally deposed on the same lines as that of his counter-claim and relied upon the documents of dated 15.01.2003, i.e., GPA as Ex.DW1/1; certified copy of Will as Ex.DW1/2; certified copy of Agreement to Sell as Ex.DW1/3; certified copy of affidavit as Ex.DW1/4; certified copy of possession letter and receipt as Ex.DW1/5 and photocopy of the sale deed dated 22.01.2008 as Ex.DW1/6.

11. DW2 produced the register showing that on 22.01.2008, the sale deed was executed by Deepak Gupta, s/o Sh. S.P. Gupta in favour of the defendant and the said sale deed was registered vide registration no. 871 Ex.DW2/1. He also produced the register to show that a GPA was executed by Sh. Rajesh Sardana s/o Sh. Madan Lal Sardana in favour of Deepak Gupta on 15.01.2003, and the same was registered vide registration no. 491 as Ex.DW2/2.

### **Impugned judgment**

12. *Ld. Trial Court dismissed the counter claim by placing the reliance upon judgement of the Hon'ble Supreme Court passed in Suraj Lamps & Industries Pvt Ltd V. State of Haryana" (2012) 1 SCC 656 wherein the Hon'ble Court held that a SA/GPA/Will transaction does not convey any title or create any interest in an immovable property, as such, Ld. Trial*

*Court held that Deepak Gupta being attorney of Rajesh Sardana (the attorney of plaintiff and his brothers) executed a Sale Deed in favour of appellant/counter claimant, did not have a perfect title in his favour, so he cannot pass a better title than he has.*

**Grounds of appeal**

13. The impugned judgment dated 30.11.2021 has been assailed mainly on the grounds:

(i) The impugned judgment/order has occasioned manifest injustice to the appellant, and as such, the same are liable to be set aside/quashed.

(ii) The findings of the facts of Ld. Trial Court is perverse, and material pieces of evidence have been discarded, and the finding has been arrived at based on inadmissible evidence.

(iii) Ld. Trial Court has not appreciated the fact that, as per section 34 of the Specific Relief Act, a simple suit for possession was filed by the landlord or the owner, which is barred under section 34 of the Specific Relief Act. The Hon'ble Supreme Court of India, as well as various High Courts of Country held several judgments on this issue, and therefore, the Ld. Trial Court has not passed the impugned order in its true perspective. No such law permits a person in settled possession to be dispossessed without due process of law. Hence, dismissal of the counterclaim by the wrong and parallel observation of the Ld. Trial Court has given the wrong tool/weapon to the plaintiff/respondent herein to overthrow the appellant from the suit property without adopting the due process of law.

(iv) The Ld. Trial Court has not appreciated the fact that the judgment of "Suraj Lamp" is not at all applicable to the facts of the present case, as the same was passed in 2012, and the sale deed is dated 22.01.2008, and

hence the Ld.Trial Court has not appreciated the said judgment in its true spirit.

(v) The Ld. Trial Court has not appreciated and wrongly held that the ratio of the judgment titled as “Ashwani Kumar vs. Sukh Devi” 2014 (4) Capital Law Judgment 90 applies to the facts and circumstances of the present case, whereas, the ratio of the said judgment is on different footing and the same does not apply to the facts of the present case in any manner whatsoever.

(vi) The Ld. Trial Court has failed to appreciate and consider the vital fact as well as the well-settled proposition of law while passing the impugned judgment that the respondent, along with his two brothers executed a General Power of Attorney whereby giving all their powers to his attorney holder which categorically says that the attorney holder can sell the suit property after receipt of full and final consideration amount. Hence, on this sole score alone, the impugned judgment order is liable to be set aside/quashed.

(vii) The Ld. Trial Court has failed to appreciate and consider the vital fact as well as the well settled proposition of law while passing the impugned judgment that the respondent alongwith his brothers executed all the relevant documents in respect of the suit property alongwith other relevant documents and after execution of the same left with no right, title and interest in respect of the suit property since April, 2000. Hence, on this sole score alone, the impugned order is liable to be set aside/quashed.

(viii) The Ld. Trial Court has failed to appreciate and consider the vital fact as well as settled proposition of law while passing the impugned judgment that the appellant has purchased the suit property by virtue of

registered sale deed dated 22.01.2008, which was duly executed by a legally competent person and under no circumstances the competency of the said executor was ever challenged or questioned by any person before any court of law. Hence, on this sole score alone, the impugned order is liable to be set aside/quashed.

(ix) The Ld. Trial Court has wrongly concluded and failed to appreciate the well-settled proposition of law that the documents as relied on by the counterclaimant/appellant are unregistered, however, GPA was indeed registered with the Ld. The Trial Court failed to consider.

14. I have heard the arguments of Ld. Counsel for the appellant and perused the record meticulously.

15. From the pleadings of the parties, the following facts, which are not in dispute, are as:

A. Respondent/plaintiff and his brothers, namely Devender Pal and Sarabjeet Singh, were the owners of the suit property.

B. Respondent/plaintiff filed suit for recovery of possession of the suit property against the appellant/counterclaimant. The said suit was dismissed in default on 14.05.2015.

C. The suit property is in the possession of the appellant / counterclaimant.

D. Plaintiff and his two brothers executed a GPA and other documents in respect of the suit property in favour of Sh. Rajesh Sardana on 06.04.2000.

16. **POINT FOR DETERMINATION:**

***“Whether the Ld. Trial Court has made an error in passing the impugned judgment dated. 30.11.2021?”***

17. Ld. Counsel for the appellant argued that the ratio of the case law *Suraj Lamp vs. State of Haryana (supra)* is misinterpreted by Ld. Trial Court while dismissing the counter-claim as plaintiff/respondent's GPA holder Rajesh Sardana further executed GPA in favour of Deepak Gupta who sold the suit property to the appellant vide registered sale deed dated 22.01.2008, as such appellant is the owner of the suit property so, the counter-claim of the appellant is liable to be decreed.

18. According to counterclaimant Sh. Deepak Gupta executed a sale deed in his favour qua suit property, so he is the owner of the same. The sale deed executed by Deepak Gupta Ex.DW2/1 has the detail which is read as under:

*“This sale deed is made and executed at Delhi on this 22nd day of January, 2008 by:- Shri Deepak Gupta s/o Shri S.P. Gupta R/o 35, Water Work No.1, Civil Lines, Delhi-110054 on behalf of Shri Rajesh Sardana S/o Shri Madan Lal Sardana R/o 199, Surya Niketan, Delhi-110092, vide General Power of Attorney executed on 15.01.2003, duly registered as document No. 491, Book No. IV, Volume No.656, on Pages 70-72, dated 15.01.2003, in the office of S.R.-VIII, Delhi, who is the General Attorney of (1) Shri Sarbjeet Singh Narula (2) Shri Devender Pal Singh & (3) Shri Ravinder Pal Singh sons of Shri Arjun Singh Narula all R/o 85-A, East Krishna Nagar, Delhi-110051, vide General Power of Attorney executed on 06.04.2000, duly Attested by Notary Public, Delhi, hereinafter called the Vendor, which expression shall mean and include his heirs, successors, executors, administrators, legal representatives, nominees and assignees of the one part : in favour of Sh. Manoj Kumar Sharma’.*

19. It is clear from the above-mentioned sale deed dated 22.01.2008, Ex.DW2/1 that Deepak Gupta, being the attorney of Rajesh Sardana, vide General Power of Attorney dated 15.01.2003 executed the sale deed in favour of the appellant/counterclaimant.

20. Admittedly, the plaintiff and his brothers, Sarabjeet and Devender Pal Singh, who were the owners of the suit property, executed a GPA in respect of the suit property on 06.04.2000 in favour of Rajesh Sardana who in turn executed General Power of Attorney on 15.01.2003 in favour of Deepak Gupta. The law is settled in regard that a General Power of Attorney holder cannot delegate his powers to another person but the same can be delegated when there is specific clause permitting sub-delegation. In the GPA executed by the plaintiff and his brothers in favour of Rajesh Sardana on 06.04.2000, there is an explicit clause providing for such delegation. The relevant clause of GPA dated 06.04.2000 is read as under:

*6. To appoint any wakil/advocate, further attorney, or attornies on our behalf*

*7. To sell the said property to any other person/persons to enter into an agreement deed, sale deed, mortgage deed/gift deed, etc. whatsoever, to sign on the same, to produce the same before the sub-registrar concerned for registration and to get the same registered, to receive the consideration thereof, to acknowledge the receipt of the same, to deliver the possession.*

21. Further, it is noted that Rajesh Sardana, based on GPA dated 06.04.2000, executed a GPA on 15.01.2003 Ex.DW2/2 in favour of Sh. Deepak Gupta wherein it has the same clauses 6 & 7 as in his GPA, on that basis Deepak Gupta executed the sale deed Ex.DW2/1 on 22.01.2008.

22. There is nothing on record to show that the plaintiff and his brothers have ever revoked the said General Power of Attorney executed by them in favour of Rajesh Sardana or that Rajesh Sardana has revoked the G.P.A executed in favour of Deepak Gupta till the execution of the sale deed dated 22.01.2008.

23. In *Suraj Lamp (supra)* the Hon'ble Supreme Court held in para nos. 13, 17 & 18, as under:

*13. A power of attorney is not an instrument of transfer in regard to any right, title or interest in an immovable property. The power of attorney is creation of an agency whereby the grantor authorizes the grantee to do the acts specified therein, on behalf of grantor, which when executed will be binding on the grantor as if done by him (see section 1A and section 2 of the Powers of Attorney Act, 1882). It is revocable or terminable at any time unless it is made irrevocable in a manner known to law. Even an irrevocable attorney does not have the effect of transferring title to the grantee. In State of Rajasthan vs. Basant Nehata - 2005 (12) SCC 77, this Court held :*

*"A grant of power of attorney is essentially governed by Chapter X of the Contract Act. By reason of a deed of power of attorney, an agent is formally appointed to act for the principal in one transaction or a series of transactions or to manage the affairs of the principal generally conferring necessary authority upon another person. A deed of power of attorney is executed by the principal in favour of the agent. The agent derives a right to use his name and all acts, deeds and things done by him and subject to the limitations contained in the said deed, the same shall be read as if done by the donor. A power of attorney is, as is well known, a document of convenience.*

*Execution of a power of attorney in terms of the provisions of the Contract Act as also the Power-of- Attorney Act is valid. A power of attorney, we have noticed hereinbefore, is executed by the donor so as to enable the donee to act on his behalf. Except in cases where power of attorney is coupled with interest, it is revocable. The donee in exercise of his power under such power of attorney only acts in place of the donor subject of course to the powers granted to him by reason thereof. He cannot use the power of attorney for his own benefit. He acts in a fiduciary capacity. Any act of infidelity or breach of trust is a matter between the donor and the donee."*

***An attorney holder may however, execute a deed of conveyance in exercise of the power granted under the power of attorney and convey title on behalf of the grantor.***

*"17. It has been submitted that making a declaration that GPA sales and SA/GPA/WILL transfers are not legally valid modes of transfer is likely to create hardship to a large number of persons who have entered into such*

*transactions, and they should be given sufficient time to regularize the transactions by obtaining deeds of conveyance. It is also submitted that this decision should be made applicable prospectively to avoid hardship.*

*18. We have merely drawn attention to and reiterated the well-settled legal position that SA/GPA/WILL transactions are not 'transfers' or 'sales' and that such transactions cannot be treated as completed transfers or conveyances. They can continue to be treated as an existing agreement of sale. Nothing prevents affected parties from getting registered Deeds of Conveyance to complete their title. The said 'SA/GPA/WILL transactions' may also be used to obtain specific performance or to defend possession under section 53 A of T. P Act. If they are entered before this day, they may be relied upon to apply for the regularization of allotments/leases by Development Authorities. We make it clear that if the documents relating to 'SA/GPA/WILL transactions' has been accepted acted upon by DDA or other developmental authorities or by the Municipal or revenue authorities to effect mutation, they need not be disturbed, merely on account of this decision."*

24. Further, Hon'ble High Court of Delhi in *Ramesh Chand Vs. Suresh Chand in RFA No. 358/2000 (Decided on 09.04.2012)* held

*12. In view of the aforesaid facts and the validity of the documents, being the power of attorney and the Will dated 16.5.1996, the respondent No.1/plaintiff would though not be the classical owner of the suit property as would an owner be under a duly registered sale deed, but surely he would have better rights/entitlement of possession of the suit property than the appellant/defendant No.1. In fact, I would go to the extent saying that by virtue of para 14 of the judgment of the Supreme Court in the case of Suraj Lamps & Industries Pvt. Ltd. (supra) taken with the fact that Sh. Kundan Lal has already died, the respondent No.1/plaintiff becomes an owner of the property by virtue of the registered Will dated 16.5.1996. A right to possession of an immovable property arises not only from a complete ownership right in the property but having a better title or a better entitlement/right to the possession of the property than qua the person who is in actual physical possession thereof. The facts of the present case show that the respondent No.1/plaintiff has undoubtedly better entitlement/title/rights in the suit property so as to claim possession from the appellant/defendant No.1/brother. I have already held above that the appellant/defendant No.1 miserably failed to prove that there was any partition as alleged of the year 1973 whereby the suit property*

*allegedly fell to the share of the appellant/defendant No.1. In fact, the second reason for holding the appellant to be unsuccessful in establishing his plea of partition is that the appellant failed to lead any evidence as to the other two properties being the property No.290, Ambedkar Basti, Delhi and the second property being the property adjoining the property No.290, Ambedkar Basti, Delhi as having belonged to the father-Sh. Kundan Lal.*

25. The ratio of *Ashwani Kumar (supra)* is not applicable in the case in hand, as in that case, the Hon'ble Court held that an unregistered agreement to sell is void and invalid to claim any rights or part performance over a property.

26. In view of the above, it is clear that the defendant/counterclaimant purchased the suit property vide sale deed Ex. DW2/1 through the attorney of the plaintiff/respondent and his brothers. The sale deed Ex. DW2/1 has never been challenged by the plaintiff or any of his brothers and plaintiff's suit for recovery of possession in respect of the suit property has been dismissed vide order dated 14.05.2015. Even otherwise, it is not in dispute that the suit property is possessed by the defendant/counterclaimant, so his possession of the suit property is liable to be protected.

27. In view of aforesaid discussion, it is clear that defendant/counter claimant being the owner of the suit property is entitled for direction to the plaintiff/respondent not to interfere in his peaceful possession of the suit property and further he is also entitled for the direction to the plaintiff/respondent not to execute any document in respect of the suit property conflicting with his title in respect of the suit property. With these observation, this appeal deserves to be allowed, accordingly, the appeal is allowed with no order as to costs.

28. The decree sheet be prepared accordingly.
29. The Trial Court Record, together with a copy of this judgment, be sent to Ld. Trial Court.
30. The appeal file be consigned to Record Room.

**Announced in the open Court  
on 29<sup>th</sup> Day of May, 2026**

**(RAVINDER SINGH-I)  
District Judge-03 East, KKD  
Courts, Delhi**