

KASM500007672017



Presented on : 12-07-2017
Registered on : 12-07-2017
Decided on : 11-08-2026
Duration : 9 Y, 0 M, 30 D.

**IN THE COURT OF THE I ADDL. CIVIL JUDGE & JMFC.,
AT SHIKARIPURA**

PRESENT: Shri.Dhananjay Hegde

B.com, LLB.,

I Addl.Civil Judge & JMFC., Shikaripura.

Dated: this the 11th day of August 2026

OS.No.114/2017

PLAINTIFF:

SRI.KARIBASAPPA.M
dead by Lrs

1a. Sunitha
D/o Late Karibasappa
Aged about 48 years

1b. Gayathri
D/o Late Karibasappa
Aged about 35 years

1c. Manjunatha.M.K.
 S/o Late. Karibasappa
 Aged about 32 years
 Applicant 1a to 1c are all
 R/o Bannerughatta Road
 Hulimavu Bangalore.

(By Sri.SNR/OSP., Advocate)

-Vs.-

DEFENDANT:

Sri.Manjunatha.K
 S/o Dyavappa,
 Member of Grama Panchayathi
 Tadagani
 Hirekasavi Post
 Shikaripura Taluk
 Shivamogga District.

(By Sri.GK., Adv.)

Date of Institution of the suit	:	12-07-2017
Nature of the suit	:	Declaration & Permanent Injunction
Date of commencement of recording of evidence	:	24-03-2021

Date on which the judgment was pronounced	:	11-08-2026		
Total duration	:	Years	Months	Days
		09	00	30

JUDGMENT

The plaintiff has filed the present suit seeking the relief of a declaration that the GPA dated 15.09.2009 executed by the plaintiff in favour of the defendant is cancelled, and to direct the Sub-Registrar, Shikaripura to make a note on the instrument as cancelled. Further, the plaintiff has sought the relief of permanent injunction restraining the defendant from interfering with his possession of the suit property.

2. It is the case of the plaintiff that he executed a GPA dated 15.09.2009 in favour of the defendant pertaining to the suit property, which is a registered general power of attorney. The said power of attorney was executed mainly for the purpose of maintaining the suit property and developing the said property in a proper manner. However, subsequently it came to

the knowledge of the plaintiff that the defendant availed a heavy loan from Syndicate Bank, Shiralakoppa by mortgaging the suit schedule property, and also came to the knowledge of the plaintiff that he misused the GPA and misutilised the amount generated by mortgaging the suit property.

3. It is the categorical assertion of the plaintiff that the defendant, by misusing the general power of attorney, acted contrary to the interest of the plaintiff. Hence, he revoked the general power of attorney by issuing a notice on 16.02.2016 to the defendant. Further, the plaintiff asserted that the factum of revocation of the GPA dated 15.09.2009 was published in a newspaper. Thereby, the GPA dated 15.09.2009 executed by the plaintiff in favour of the defendant stands revoked.

4. The plaintiff has asserted that, in relation to the legal notice dated 16.02.2016 issued by the plaintiff upon the defendant regarding the cancellation of the GPA, the defendant, in his reply dated 23.04.2016, contended that the suit property had already been sold to him by way of an agreement and only

the registration part was yet to be done. Therefore, the plaintiff was called upon to execute the sale deed pertaining to the suit property after the expiry of the non-alienation period subsisting on the suit property.

5. The plaintiff has further asserted that, after the termination of the GPA, the defendant has no authority to continue with his authority over the suit property. Despite the cancellation of the GPA, the defendant is acting as a de facto owner. In furtherance of the same, the defendant on 01.03.2017 unlawfully took away the ginger crop grown on the suit property. Therefore, the plaintiff has filed the present suit seeking the relief of a declaration that the general power of attorney dated 15.09.2009 executed by himself in favour of the defendant pertaining to the suit property is cancelled and has sought the relief of permanent injunction.

6. Upon service of summons, the defendant entered appearance and filed his written statement refuting the case of the plaintiff. In the written statement, the defendant has

admitted that on 15.09.2009, the plaintiff had executed a general power of attorney in favour of the defendant himself pertaining to the suit property and that the said power of attorney is a registered document. Further, it is also admitted by the defendant that the plaintiff got issued a legal notice to the defendant revoking the GPA.

7. The defendant has made a categorical assertion that the suit schedule property was granted to the plaintiff in the year 2009. The said grant was made by way of darkhast, and in the said grant there was an explicit condition that the plaintiff shall not alienate the suit property within 15 years from the date of grant. Further, the defendant has asserted that himself and the plaintiff were known to each other for a long time. In the year 2009, the plaintiff was in severe financial distress and he was not able to generate funds from the suit property. Therefore, he went to Bengaluru in search of a job.

8. In view of the financial difficulty of the plaintiff, he sold the suit property to the defendant on 15.03.2009 by

executing a sale agreement, and under the said sale agreement, the possession of the suit property was handed over to the defendant. However, in view of the non-alienation stipulation provided under the grant order, a registered sale deed could not have been executed. On the date of execution of the sale agreement itself, the entire sale consideration was passed and the possession was also handed over to the defendant. Despite the execution of such a sale agreement conveying the suit property in favour of the defendant, he could not get a loan by mortgaging the suit property inasmuch as there was no registered sale deed. Therefore, the plaintiff executed a general power of attorney only to enable the defendant to mortgage the suit property and avail a loan.

9. It is the categorical assertion of the defendant that, soon after the execution of the sale agreement dated 15.03.2009, the plaintiff parted with the possession of the suit property and the defendant was put in possession of the suit property. The GPA dated 15.09.2009 was only to enable the defendant to mortgage the suit property and avail a loan on the suit property,

in which he was put in possession pursuant to the sale agreement dated 15.03.2009.

10. The defendant has made a specific contention that he put a lot of money into cultivating the suit property and developing the same. By investing a large amount of money, he dug a borewell and grew an areca plantation. Further, in his additional written statement, the defendant has categorically asserted that at the time of the execution of the sale agreement dated 15.03.2009, one Sri. Manjunatha was also present. Further, the defendant contended that the factum of execution of the sale agreement dated 15.03.2009 in favour of the defendant pertaining to the suit property is well within the knowledge of the legal heirs of the plaintiff. Since the plaintiff utilised the sale consideration, paid by the defendant pursuant to the sale agreement dated 15.03.2009, for family necessity, the legal heirs of the plaintiff are bound to execute the sale deed pertaining to the suit property in favour of the defendant after the expiry of the non-alienation period. With these assertions, the defendant sought the dismissal of the suit.

11. In view of the aforesaid rival pleadings, the following issues have been framed:

ISSUES

1. *Whether the plaintiffs prove that the registered GPA dated 15.09.2009 has been revoked in the manner known to law?*
2. *Whether the plaintiffs prove that they are in the possession of suit schedule property as on date of the suit?*
3. *Whether the plaintiffs prove that the defendant has interfered with their possession of suit schedule property?*
4. *Whether the plaintiff is entitled to the relief of declaration and cancellation as sought?*
5. *Whether the plaintiff is entitled to the relief of permanent injunction as sought?*
6. *What Order or decree?*

12. Plaintiff No. 1 (c) got himself examined as PW1 and got Ex. P1 to P4 marked. On the other hand, the defendant got himself examined as DW1, got Ex. D1 to D 26 marked, and got one more witness examined as DW2.

13. Heard the learned counsel appeared for the plaintiff and the learned counsel appeared for the defendant.

14. On consideration of the materials placed on record, this Court answers the aforesaid as hereunder:

Issue No.1 : In the Affirmative.

Issue No.2 : In the Negative.

Issue No.3 : In the Negative.

Issue No.4 : In the Affirmative.

Issue No.5 : In the Negative .

*Issue No.6 : As per the final order
for the following:*

REASONS

15. **Issue No.1:-** In the present case, the plaintiff asserted that he executed a general power of attorney dated 15.09.2009 in favour of the defendant pertaining to the suit property. However, the defendant misused the said power of attorney and availed a heavy loan on the suit property. Despite availing a loan on the suit property, he had not invested the loan amount on the suit property and had not maintained the suit

property properly. Hence, he issued a notice dated 16.02.2016 terminating the contract of agency subsisting between the plaintiff and the defendant with respect to the suit property. Despite service of such notice of termination, the defendant did not surrender the general power of attorney to the plaintiff, but issued a reply dated 23.04.2016 stating that he has been in possession of the suit property pursuant to the sale agreement dated 15.03.2009. Thereby, he contended that the suit property had already been sold to him and he was put in possession.

16. In the case at hand, the defendant admitted the execution of the registered general power of attorney dated 15.09.2009 by the plaintiff in his favour pertaining to the suit property. However, it is the categorical assertion of the defendant that he was put in possession of the suit property pursuant to the sale agreement dated 15.03.2009, and not pursuant to the general power of attorney dated 15.09.2009.

17. It is the specific contention of the defendant that the general power of attorney dated 15.09.2009 was executed only to

enable the defendant to avail a loan on the suit property by mortgaging the same. Since he was already put in possession of the suit property pursuant to the sale agreement dated 15.03.2009, he could not get a loan on the suit property inasmuch as there was no sale deed. For that reason, a general power of attorney dated 15.09.2009 was executed, and therefore he has been in possession of the suit property.

18. It is to be noted that, in the written statement, the defendant has admitted the issuance of the legal notice by the plaintiff revoking the general power of attorney. The defendant in his written statement has not made any assertion as to the legality of the cancellation of the general power of attorney. Rather, he asserted his possession over the suit property, stating that pursuant to the Sale Agreement dated 15.03.2009, he was put in possession of the suit property.

19. In order to prove the legality of cancellation of GPA, PW1 in his affidavit filed in lieu of chief examination reiterated the plaint averments. PW1 has produced Ex. P1, i.e., the general

power of attorney dated 15.09.2009. The recitals of the said General Power of Attorney dated 15.09.2009 read as under:

ಸನ್ 2009 ನೇ ಸೆಪ್ಟೆಂಬರ್ ಮಾಹೆ ತಾರೀಖು 15 ರಲ್ಲು, ಶಿವಮೊಗ್ಗ ಜಿಲ್ಲಾ, ಶಿಕಾರಿಪುರ ತಾಲ್ಲೂಕು, ತಡಗಣಿ ಗ್ರಾಮದ ವಾಸಿಯಾದ ಸುಮಾರು 42 ವರ್ಷ ವಯಸ್ಸಿನ ಮಂಜುನಾಥ.ಕೆ ಬಿನ್ ದ್ಯಾವಪ್ಪ ಇವರಿಗೆ,

ಇದೇ ತಡಗಣಿ ಗ್ರಾಮದ ವಾಸಿಯಾದ ಸುಮಾರು 60 ವರ್ಷ ವಯಸ್ಸಿನ ಕರಿಬಸಪ್ಪ ಬಿನ್ ಮುತ್ತಪ್ಪ ಆದ ನಾನು ಬರೆಸಿಕೊಟ್ಟ ಜನರಲ್ ಪವರ್ ಆಫ್ ಅಟಾರ್ನಿಪತ್ರ ಏನೆಂದರೆ,

ನಾನು ಮತ್ತು ನೀವು ತುಂಬಾ ಆತ್ಮೀಯ ಸ್ನೇಹಿತರಾಗಿದ್ದು ನನಗೆ ಸದರಿ ಈ ಕೆಳಕಂಡ ಸ್ವತ್ತು 08-09 ರಂತೆ ದರಖಾಸ್ತು ಮಂಜೂರಾಗಿದ್ದು, ಸದರಿ ಸ್ವತ್ತಿನ ಬಗ್ಗೆ ನನಗೆ ವಯಸ್ಸಾಗಿರುವುದರಿಂದ ಹಾಗೂ ನನ್ನ ಮಕ್ಕಳು ಬೇರೆಯಾಗಿ ವಾಸವಾಗಿರುವುದರಿಂದ ನೀವು ನನ್ನ ಕುಟುಂಬದ ಹಿತೈಷಿಗಳಾಗಿದ್ದು, ಸದರಿ ನನ್ನ ಹೆಸರಿಗೆ ಖಾತೆ ಪಹಣಿ ದಾಖಲಾಗಿ ಇರುವ ಹಾಗೂ ಹಾಲಿ ನನ್ನ ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿರುವ ಸ್ವತ್ತಿನ ಬಗ್ಗೆ ವ್ಯವಹಾರ ನಡೆಸಲು ಸದರಿ ಸೊತ್ತಿನ ವಿಚಾರದಲ್ಲಿ ಪದೇ ಪದೇ ಓಡಾಡಲು ಸಾಧ್ಯವಾಗದೇ ಇರುವುದರಿಂದಲೂ, ಸದರಿ ಸ್ವತ್ತಿನ ಬಗ್ಗೆ ಇನ್ನು ಮುಂದೆ ನೀವು ಖಾಸಗಿ ವ್ಯಕ್ತಿಗಳಲ್ಲಿ, ಬ್ಯಾಂಕಿನಲ್ಲಿ, ಸಹಕರ ಸಂಘಗಳಲ್ಲಿ, ಅಥವಾ ಹಣಕಾಸು ಸಂಸ್ಥೆಗಳಲ್ಲಿ ಸೊತ್ತುಗಳನ್ನು ಆಧಾರ ಮಾಡಿ ಸಾಲವನ್ನು ಪಡೆಯಲು, ಪಡೆದ ಸಾಲವನ್ನು ಮರುಪಾವತಿ ಮಾಡಲು, ರಾಷ್ಟ್ರೀಕೃತ ಬ್ಯಾಂಕಿನಲ್ಲಿ, ಡಿಸಿಸಿ ಬ್ಯಾಂಕು ಮತ್ತು ಸೊಸೈಟಿ ಗಳಲ್ಲಿ ಖಾತೆ ತೆರೆದು ವ್ಯವಹರಿಸಲು, ಖಾಸಗಿ ಮತ್ತು ಸರ್ಕಾರಿ ಅರಣ್ಯ ಇಲಾಖೆ ಹಾಗೂ ಅರೇಸರ್ಕಾರಿ, ಕಛೇರಿಗಳಲ್ಲಿ ಹಾಗೂ ನ್ಯಾಯಾಲಯಗಳಲ್ಲಿ ವ್ಯವಹರಿಸಲು, ಬ್ಯಾಂಕಿನ ಮಾರ್ಟಗೇಜ್ ಮಾಡಿಸಲು ಹಾಗೂ ಸದರಿ ದಸ್ತಾವೇಜನ್ನು ನೋಂದಾವಣೆ

ಕಛೇರಿಯಲ್ಲಿ ದಸರಿ ಸ್ವತ್ತಿಗೆ ಬೇಕಾಗುವ ನೋಂದಾವಣಾ ದಾಖಲೆಗಳಿಗೆ ಸಹಿ ಮಾಡಲು ಮತ್ತು ನೋಂದಾವಣೆ ಮಾಡಿ ಕೊಡಲು, ಮತ್ತು ಸಾಲದ ಹಣ ಪಡೆಯಲು ಅಧಿಕಾರಿಗಳನ್ನು ಕೊಟ್ಟಿರುತ್ತೇವೆ. ಹಾಗೂ ಸದರಿ ಸ್ವತ್ತನ್ನು ಮಾರಾಟ ಮಾಡಲು ಬೇಕಾಗುವ ಎಲ್ಲಾ ಕಾನೂನು ರೀತ್ಯಾ ದಾಖಲೆಗಳನ್ನು ಪಡೆಯಲು ಕ್ರಯ ನೋಂದಣಿ ಮಾಡಿಸಿಕೊಡಲು ಹಾಗೂ ಕ್ರಯದ ಹಣವನ್ನು ಪಡೆಯಲು ಸಹ ಈ ಲಾಗಾಯ್ತು ಇನ್ನುಮುಂದೆ ನೀವು ಮಾಡುವ ಎಲ್ಲಾ ವ್ಯವಹಾರಗಳನ್ನು ಖುದ್ದು ನಾನೇ ಮಾಡಿದಂತಾಗುತ್ತದೆ ಎಂದು ಈ ರೀತಿ ನಿಮಗೆ ಜನರಲ್ ಪವರ್ ಆಫ್ ಅಟಾರ್ನಿ ಪತ್ರವನ್ನು ಬರೆಯಿಸಿ ಕೊಟ್ಟಿರುತ್ತೇನೆ.

20. From the perusal of Ex. P1, it is forthcoming that the plaintiff authorised the defendant to obtain a loan from any private individuals or nationalised banks by mortgaging the suit property. Moreover, the plaintiff has authorised the defendant to register any document pertaining to the suit property and enter into registration of such documents. Apart from that, it is also forthcoming that the defendant was authorised to sell the suit property by executing and registering documents and to receive the sale consideration.

21. It is to be noted that, in Ex. P1- GPA there is no provision for cancellation or revocation of the GPA. Apart from

that, the term of the GPA is also not forthcoming. The said document does not reveal anything as to the mode of revocation of the GPA. Moreover, the said GPA is a registered document. That being the case, when the plaintiff has sought for declaration that the GPA is cancelled, it is necessary to ascertain whether such GPA is a revocable general power of attorney or an irrevocable general power of attorney.

22. The concept called contract of agency is provided under the Contract Act. The revocation of agency is given under Section 201 and Section 202 of the Indian Contract Act.

Section 201 reads as under:

201. Termination of agency.—An agency is terminated by the principal revoking his authority; or by the agent renouncing the business of the agency; or by the business of the agency being completed; or by either the principal or agent dying or becoming of unsound mind; or by the principal being adjudicated an insolvent under the provisions of any Act for the time being in force for the relief of insolvent debtors.

23. From a perusal of the aforesaid provision, it is forthcoming that the contract of agency can be terminated by

the principal unilaterally. The termination does not require the consent of the agent; rather, the unilateral action of the principal terminates the agency. Apart from unilateral termination, by reason of the death of either the principal or the agent, the contract of agency stands terminated.

24. It is to be noted that Section 202 of the Contract Act provides that where an interest is created in favour of the agent in the subject matter of the agency, the power of attorney cannot be revoked unilaterally. Section 202 reads as under:

202.Termination of agency, where agent has an interest in subject-matter.—Where the agent has himself an interest in the property which forms the subject-matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.

25. From a perusal of Section 202, it is forthcoming that if the contract of agency is an agency coupled with an interest in favour of the agent, then unilateral cancellation is not possible. Moreover, even on the death of the principal, the contract of agency does not terminate where such interest has been created in favour of the agent. In the present case, neither in the plaint

nor in the written statement, the nature of the power of attorney pleaded as to whether the same is revocable or irrevocable. Hence, the same has to be gathered from the material available before the court.

26. The materials made available by PW1 before the court do not suggest anything as to the irrevocable nature of the general power of attorney dated 15.09.2009. It is to be noted that in Ex. P1, no interest in the suit property has been created in favour of the defendant. The entire recitals of Ex. P1 unequivocally suggest an inference that the defendant was enabled to obtain a loan by mortgaging the suit property and was authorized to execute any deed on behalf of the plaintiff. That being the case, mere authorization to sell the suit property through a general power of attorney does not render the general power of attorney an irrevocable authority.

27. On the other hand, the defendant also, in his written statement, does not state anything as to the nature of the power of attorney. Rather, he contends that he was put in possession

of the suit property pursuant to the sale agreement dated 15.03.2009, wherein the suit property was sold to the defendant for a consideration of ₹1,40,000 and he was put in possession of the suit property on that day itself. In view of the non-alienation clause involved in the grant of the suit property made in favour of the plaintiff in the year 2009, the registered sale deed was not executed. Hence, the plaintiff was required to execute a GPA despite the execution of the sale agreement pertaining to the suit property, inasmuch as the defendant could not avail a loan by mortgaging the suit property.

28. It is to be noted that the purport of the written statement filed by the defendant suggests an inference that no interest was created in the general power of attorney dated 15.09.2009 regarding the subject matter of the agency. He also contends that it is merely an enabling document which authorized him to mortgage the suit property. That being the case, no interest was created in the subject matter of the agency.

29. The DW1 in his affidavit filed in lieu of chief examination reiterated the defendant's written statement averments. DW1 has produced the unregistered sale agreement dated 16.03.2009, i.e., Ex. D16. Since the said document was unregistered and paid with deficit stamp duty, the defendant paid ₹1,14,400 as penalty and deficit stamp duty. Thereafter, the said document was admitted into evidence, which is said to have been executed by Plaintiff in favour of the Defendant.

30. The DW1, in his cross-examination, also categorically deposed that he was put in possession of the suit property pursuant to the sale agreement, i.e., Ex. D16. Throughout cross-examination, DW1 stood by his assertion that he came into possession of the suit property on the strength of the Ex. D16 sale agreement, and not on the basis of the GPA (i.e., Ex. P1, which is also produced by DW1 as Ex. D1). Therefore, from a perusal of the testimony of PW1 as well as DW1, it is forthcoming that the GPA dated 15.09.2009 (i.e., Ex. P1) does not create any interest in favour of the defendant with respect to the suit property.

31. It is unequivocal that the GPA (Ex. P1) contains a clause wherein the defendant was authorized to sell the suit property and receive the sale consideration. That being the case, the question arises whether that amounts to the creation of an interest in the subject matter of the agency or not.

32. The Hon'ble High Court of Karnataka, in the case of ***M.S. Ananthamurthy v. J. Manjul: (2020) 2 Kant LJ 458 at page 3633*** has held as under:

Thus these three judgments would clearly go to show that merely because a Power of Attorney holder is said to have been put in possession of the subject property or merely because the Power of Attorney holder is said to have parted with some money in favour of the executant of the General Power of Attorney, by that itself, it cannot be interred that the Power of Attorney has got any interest in the subject property.

33. It is to be noted that the said judgment was confirmed by the Hon'ble Apex Court in the judgment reported in ***(2025) 10 SCC 596***. Therefore, from a perusal of the aforesaid judgments, it is abundantly clear that merely authorizing the agent to sell the suit property and enjoy and look

after the suit property does not amount to an irrevocable general power of attorney. Even if such a document contains nomenclature stating that the power of attorney is irrevocable in nature, the recital itself does not make the power of attorney irrevocable. That being the case, it is abundantly clear that in the case at hand, Ex. P1 GPA is not an irrevocable GPA, inasmuch as no interest was created in the suit property exclusively by the power of attorney in favour of the agent that is the Defendant.

34. In view of the above discussion, this Court is of the view that Ex. P1 general power of attorney is not a power of attorney coupled with interest which is irrevocable; rather, the same is revocable in nature. That being the case, the cancellation has to be done as per the purport contained under Section 201 of the Contract Act, and not under Section 202 of the Contract Act.

35. It is the assertion of PW1 that by way of Ex. P2 legal notice, the Ex. P1 GPA has been cancelled. Moreover, such

cancellation has been published in Ex. P4 publication. Hence, it is contended that, in view of Ex. P2 and Ex. P4 (i.e., the legal notice and paper publication), Ex. P1 (i.e., the registered general power of attorney which is not coupled with interest) stands cancelled.

36. It is to be noted that Ex. P1 is a registered document. That being the case, the issue is whether a revocable General Power of Attorney which is a registered document can be revoked by way of issuance of notice to the agent or by way of paper publication.

37. The Hon'ble High Court of Karnataka, in ***Writ Petition No. 16770/2024, North Roof Ventures Private LTD v.s State of Karnataka and Ors.*** has observed as under:

17. The registered Power of Attorney enjoys evidentiary value as a result of registration. A mere unregistered cancellation letter or informal notice would not be effective to revoke the registered Power of Attorney. A registered Power of Attorney is to be revoked by a registered deed of revocation.

38. From a perusal of the judgment of the Hon'ble High Court of Karnataka in the aforesaid case, it is forthcoming that

mere issuance of notice in the case of a revocable power of attorney which is a registered one does not render such power of attorney revoked. When such power of attorney is executed by way of registration, cancellation shall be done by execution of a cancellation deed and registration thereof. However, in the case at hand, no such exercise has been undertaken by the plaintiff. Therefore, mere issuance of legal notice and publication does not render the GPA cancelled.

39. It is to be noted that as per Section 201 of the Contract Act, when a general power of attorney is not coupled with interest, upon the death of either the agent or the principal, the contract of agency stands terminated. It is to be noted that in the case at hand, the plaintiff is dead. That is an undisputed fact. Moreover, as observed above, Ex. P1 (i.e., the general power of attorney dated 15.09.2009) is not a power of attorney coupled with interest. Therefore, the provision contained in Section 202 of the Contract Act is not applicable. Hence, in view of the death of the plaintiff, the contract of agency entered into between the plaintiff and the defendant via Ex. P1 stands terminated.

40. The learned counsel appearing for the defendant has argued that there is no material to show that the defendant has misused the general power of attorney and mismanaged the suit property. It is merely an allegation in the plaint and there is no evidence to that effect. Hence, it cannot be held that there is a termination of agency due to mismanagement.

41. It is to be noted that as per Section 201 of the Indian Contract Act, the principal is at liberty to terminate the contract of agency at any time if the contract of agency is not coupled with an interest. As observed above, in the case at hand, the contract of agency entered into between the plaintiff and the defendant is not coupled with interest. That being the case, despite there being no proof as to mismanagement, the contract of agency stands terminated in view of death of the Plaintiff. Though the mode of cancellation that was adopted by the plaintiff is not effective inasmuch as the general power of attorney is a registered one, because of the death of the plaintiff, the same has come to an end. ***Accordingly, Issue No.1 is answered in the Affirmative.***

42. **Issue No.2 and 3:-** As these issues are interconnected to each other, they are taken up together for common discussion, in order to avoid repetition of facts and evidence.

43. It is the assertion of the plaintiff that, on the strength of the GPA dated 15.09.2009, the defendant was put in possession of the suit property only to manage, look after, and develop the same. However, he misused the general power of attorney and availed a heavy loan on the suit property without there being any instruction from the plaintiff and against the interest of the plaintiff. Hence, he terminated the contract of agency by issuing a notice dated 16.02.2016. Even after the issuance of such notice terminating the contract of agency, the defendant made the assertion that he was put in possession of the suit property not on the basis of the GPA, but rather that the suit property had already been sold to him by way of a sale agreement. Such assertion is baseless and false. Therefore, after the termination of the contract of agency, he has no authority to enter the suit property. Despite that, on 01.03.2017, he unlawfully took away the ginger crop grown on the suit property.

Hence, they sought the relief of a permanent injunction.

44. In the written statement, the defendant has made a categorical assertion that the suit property was granted in favour of the plaintiff in the year 2009 by way of *darkhast*. In the grant order, there is a stipulation restraining the plaintiff from alienating the suit property within 15 years from the date of grant. However, in the year 2009, the plaintiff was in severe financial distress. Therefore, he asked the defendant to buy the suit property. Accordingly, the plaintiff and the defendant entered into a sale agreement dated 15.03.2009 wherein the defendant paid the entire sale consideration of ₹1,40,000 to the plaintiff and was put in possession of the suit property.

45. On the strength of the said sale agreement, he has been in possession of the suit property. Further, the defendant has categorically made an assertion that the general power of attorney dated 15.09.2009 is only an enabling document which enabled him to avail a loan by mortgaging the suit property which was sold to him by way of the sale agreement. It is the

defendant who developed the suit property and grew an areca plantation over the suit property by digging two borewells. Therefore, it is the defendant who is in possession of the suit property, and the plaintiffs are not entitled to the relief of a permanent injunction.

46. In the case at hand, the plaintiffs have sought the relief of permanent injunction; therefore, the initial burden is on them to show that they are in possession of the suit property. PW1 has produced Ex. P3, i.e., the RTC for Survey No. 26/5B (i.e., the suit property) for the year 2015–16. From a perusal of the said document, it is forthcoming that the name of the plaintiff is mentioned in column numbers 9 as well as 12 of the suit property. Except for the said RTC, no other document has been produced by the plaintiff to substantiate their assertion regarding the possession of the suit property.

47. The PW1, in his cross-examination, deposed that he does not know the boundaries of the suit property, and in the plaint also, the plaintiff has not mentioned the boundaries of the

suit property. It is a categorical admission by PW1 that he does not know where the suit schedule property is situated. The said part of the testimony of PW1 suggests an inference that the factum of possession as asserted by the plaintiff in the plaint is not deposed to by PW1 in his testimony. It is an admitted fact by PW1 that about 8 to 10 years ago, the defendant dug a borewell in the suit property. However, PW1 deposed that they have grown an areca plantation over the suit property, not the defendant.

48. It is to be noted that in the plaint, the plaintiff has averred that on 01.03.2017, the defendant came and took away the ginger crop grown on the suit property. In the testimony of PW1, there is no evidence or statement regarding the growing of a ginger crop in the suit property. On the other hand, it is an admitted fact that the defendant dug a borewell on the suit property. That supports the assertion of the defendant regarding his possession of the suit property.

49. The PW1 failed to depose as to the identification of the suit property by stating the boundaries. On the other hand, he clearly stated that he does not know where the suit property is situated. That itself shows that they are not physically cultivating the suit property. Moreover, the allegation that on 01.03.2017 the defendant came and took away the ginger crop—that too after revocation of the GPA—has not at all been substantiated by the plaintiffs by producing cogent materials in support of such contention.

50. It is the assertion of the defendant that he was put in possession of the suit property on 16.03.2009 pursuant to the unregistered sale agreement, i.e., Ex. D16. DW1 in his chief examination reiterated the written statement's averment regarding his possession as well as the execution of the Ex. D16 agreement by the plaintiff in his favour. Ex. D16 is an unregistered Sale Agreement coupled with possession, but stamp duty and penalty have been paid on it. The recitals of Ex. D16 show that the plaintiff executed such a document in favour of the defendant pertaining to the suit property. In view of the

financial difficulty of the plaintiff, to repay petty loans and to fulfill the expenses of his daughter's marriage, the plaintiff sold the suit property in favour of the defendant for ₹1,40,000.

51. The recitals of Ex.D16 also suggest an inference that on the said day itself, the entire sale consideration was passed and possession was also handed over in favour of the defendant. It is also made clear in the said agreement that the plaintiff will execute a power of attorney enabling the defendant to avail a loan on the said property. In the said document, it is unequivocally stated that after completion of the non-alienation period, the plaintiff will execute a sale deed of the property pursuant to the sale agreement.

52. It is the categorical assertion of the plaintiff that at no point in time was such a document executed by the plaintiff in favour of the defendant. Further, it is asserted that such a document has been created by the defendant himself and that he was never put in possession of the suit property pursuant to the said sale agreement.

53. In the present case, this Court cannot venture into examining the entitlement of the defendant to get the sale deed executed pursuant to the Ex. D16 sale agreement. The only purpose of looking into Ex. D16 is to determine whether the defendant is in possession of the suit property as on the date of the filing of the suit or not. Apart from that, it is also necessary to determine whether the defendant is in possession of the suit property pursuant to the sale agreement (i.e., Ex. D16) or the general power of attorney (i.e., Ex. P1).

54. The recitals of Ex. D16 (i.e., the unregistered sale agreement dated 16.03.2009) unequivocally show that, in view of the non-alienation period, the plaintiff executed such a sale agreement wherein possession was handed over in favour of the defendant and the entire sale consideration was also paid. Moreover, the said transaction took place in the presence of 4 witnesses. Furthermore, the said document is signed by both the plaintiff and the defendant. In the present case, though Ex. D16-Sale Agreement was marked, the signatures of the parties to the said sale agreement were not marked separately. However, the

defendant got one more witness examined as DW2, who is also an attesting witness to the Ex. D16 sale agreement.

55. The DW2, who is one of the witnesses to Ex. D16, deposed before this Court by filing an affidavit in lieu of chief examination. In his affidavit, it is stated that on 16.03.2009, the plaintiff sold the suit property for ₹1,40,000 in favour of the defendant. In view of the non-alienation stipulation in the grant order, they agreed to execute the sale deed after the expiration of such term. DW2 has categorically stated that on the date of the agreement itself, possession of the suit property was handed over. Thereafter, on 15.09.2009, only to enable the defendant to obtain a loan by mortgaging the suit property, the plaintiff executed a GPA. Further, DW2 has categorically stated that the defendant is in possession of the suit property and has been growing an areca crop on the suit property, wherein he dug borewells.

56. The DW2 was cross-examined by the learned counsel appearing for the plaintiff. DW2 in his cross-examination

deposed that in the year 2009, the plaintiff and the defendant entered into an agreement wherein the plaintiff sold the suit property in favour of the defendant for ₹1,40,000. It is also categorically stated by DW2 that initially, on 16.03.2009, a sale agreement took place, and thereafter, on 15.09.2009, the GPA was executed. DW2 categorically stated that he put his signature on the sale agreement. DW2 has categorically stated that the plaintiff was never in possession of the suit property and that it is the defendant who has been cultivating the suit property by growing an areca plantation on the said property pursuant to the sale agreement dated 16.03.2009.

57. It is to be noted that the testimony of DW2 in his cross-examination is exactly in line with the recitals of the Ex. D16 sale agreement. Though the signature of the witness was not marked, the DW-2 unequivocally deposed that he put signature on Sale Agreement dated 16.03.2009. It is a settled position of law that as per Sec.73 of the Indian Evidence Act, the court has got a jurisdiction to compare the admitted signature of

a person the another signature found on the document which is purported to be signed by such person.

58. The signature of the DW-2 in the affidavit filed in lieu of the chief examination as well as depositions in cross examination is absolutely similar to signature found at Sl.No.3 of the witness column of Ex.D16. Moreover, the signature of the Plaintiff found in vakalath is similar to one found in Ex.D16. That being the case the execution of the Ex.D16 cannot be doubted. Moreover, the fact that the Defendant put in possession of the suit property pursuant to the Ex.D16 is explicit

59. The Ex. D16 is an unregistered sale agreement of the year 2009. The original document itself is produced. The said document, though containing recitals of a sale deed, is not registered. However, stamp duty and penalty have been paid. That being the case, there is no impediment in considering the said document for the purpose of determining collateral transactions, as contemplated under Section 49 of the

Registration Act. Since the present case is not for the specific performance of a sale agreement, there is no impediment in relying upon Ex. D16 for the purpose of determining the possession of the defendant over the suit property. A conjoint reading of the testimony of DW1, DW2, and Ex. D16 makes it abundantly clear that the defendant is in possession of the suit property as on the date of filing of the suit, on the strength of the Ex. D16 sale agreement and not on the GPA.

60. In the case at hand, it is abundantly clear that Ex. D16 (i.e., the sale agreement) came into existence before the GPA dated 15.09.2009. On a keen perusal of the recitals of Ex. P1, there is no averment regarding the handing over of possession of the suit property in favour of the defendant under the said power of attorney. Apart from that, there is no mention that the defendant was appointed or authorized to look after the suit property. There is no recital regarding authorizing the defendant to grow crops over the suit property on behalf of the plaintiff. Rather, Ex. P1 contains recitals only regarding the availment of a loan, execution of documents, and receiving sale

consideration. Therefore, it is abundantly clear that the possession of the suit property was handed over to the defendant on Ex. D16 (i.e., the sale agreement) and not on the GPA. A conjoint reading of Ex. D16 as well as Ex. P1-GPA makes it abundantly clear that after the defendant was put in possession of the suit property on the strength of the sale agreement, Ex. P1 GPA was executed only to enable him to mortgage the suit property.

61. The Ex. P1 - GPA dated 15.09.2009 does not contain any recital regarding the plaintiff authorizing the defendant to look after the suit property, manage the suit property, or allow him to grow crops on the suit property. Had the Defendant been put in possession of the suit property in the capacity of the GPA holder of the Plaintiff under Ex.P1, then, there would have been recitals in the said GPA regarding putting the Defendant in possession of the suit property as a GPA holder. The entire GPA dated 15.09.2009 is completely silent in this regard. Moreover, there was no reason for the Defendant to get the GPA from the Plaintiff, if he was not put in possession of the suit property as

per Ex.D16-Sale Agreement. The absence of recitals regarding the terms of cultivation of the suit property in GPA-Ex.P1, probabalises the case of the Defendant that he was already put in possession under the Sale Agreement and the Ex.P1-GPA is only an enabling instrument. That being the case, this Court is of the view that the defendant was put in possession of the suit property on the basis of the sale agreement (i.e., Ex. D16), and not on the basis of Ex. P1 GPA.

62. The DW1 has produced the certified copy of the plaint in O.S. No. 154/2026, wherein the defendant herein filed a suit seeking the relief of specific performance of the sale agreement dated 16.03.2009, and the same was instituted against the legal heirs of the plaintiff herein. It is to be noted that the enforceability of the said sale agreement cannot be considered by this Court in a suit for declaration for cancellation of the GPA and permanent injunction.

63. The enforceability of the Ex. D16 sale agreement lies exclusively in the realm of the court which adjudicates the suit

for specific performance. Therefore, the criteria applicable to that suit cannot be made applicable in the present case. Therefore, irrespective and regardless of the enforceability of the agreement, Ex. D16 suggests an inference regarding the defendant's possession over the suit property.

64. The learned counsel appearing for the plaintiff has argued that the Ex. D16 sale agreement is void *ab initio*, inasmuch as the same came into existence during the period of non-alienation pertaining to the suit property. Therefore, the agreement itself is void *ab initio*, and the assertion of the defendant that he is in possession of the property on the basis of the said void document is untenable.

65. It is to be noted that whether the said agreement is void *ab initio* or not does not arise for consideration in the present case. The enforceability will be considered in the suit for specific performance, not in the present suit. However, regardless of the legality of the said agreement, the defendant was put in possession of the suit property. Therefore, such

contention does not come to the rescue of the plaintiff. Moreover, the Hon'ble High Court of Karnataka, in the case of ***Avalappa and others v. K. Narasimha Reddy*** in ***RSA No. 203 of 2010***, has observed that after the expiration of the non-alienation period or after the expiration of the statutory bar, the agreement is enforceable even though such agreement was entered into during the period of statutory bar. In view of the said judgment, at this stage of the matter, it cannot be held that the agreement (i.e., Ex. D16) is void *ab initio* hence, it is *unenforceable*.

66. It is also contended by the learned counsel appearing for the plaintiff that the said suit for specific performance is barred by limitation, inasmuch as though the plaintiff died in the year 2019, the suit for specific performance has been instituted in the year 2026. It is to be noted that the present case is only to determine the possession of the suit property and adjudicate the claim of permanent injunction. The limitation as well as the legality of Ex. D16 will arise for consideration in the suit for specific performance which is pending consideration, not in this case. It is also to be noted that mere non-enforceability of

Ex. D16 does not suggest an inference that the plaintiffs are in possession of the suit property. Regardless of the enforceability and legality of Ex. D16, it is abundantly clear that the defendant is in possession of the suit property pursuant to the Ex. D16 sale agreement.

67. The learned counsel appearing for the plaintiff has argued that if at all such an agreement was executed by the plaintiff in favour of the defendant agreeing to sell the suit property, then in the present case itself they could have sought a counterclaim. Since the defendant has not sought any counterclaim, such assertion of the defendant regarding his possession over the suit property pursuant to the alleged sale agreement is untenable.

68. It is to be noted that when the suit was filed (i.e., in the year 2017), the non-alienation period stipulated with respect to the suit property had not expired. Even as per Ex. D16, the plaintiff agreed to execute the sale deed after the expiration of the non-alienation period. Since the present suit was filed

during the non-alienation period, when the defendant filed the written statement, there was no cause of action to seek a counterclaim, inasmuch as there was a statutory bar for the enforcement of Ex. D16. Therefore, that issue does not make this Court disbelieve the assertion of the defendant regarding his possession over the suit property.

69. The learned counsel appearing for the plaintiff has argued that if at all the defendant was put in possession over the suit property pursuant to the sale agreement dated 16.03.2009, then there would have been an averment in the GPA dated 15.09.2009 regarding the execution of the sale agreement. However, in Ex. P1 (that is, the GPA dated 15.09.2009), there is no recital regarding such sale agreement. Therefore, the contention of the defendant regarding the execution of the Ex. D16 sale agreement itself is unbelievable.

70. *Per contra*, the learned counsel appearing for the defendant has argued that Ex. D16 was not registered because there was a stipulation restraining the plaintiff from alienating

the suit property. Ex. P1 (that is, the registered GPA dated 15.09.2009) does not contain recitals regarding the sale agreement, inasmuch as if the registered document contained recitals regarding the arrangement for alienation or the agreement for selling the suit property during the pendency of the non-alienation period, the same would render the suit property liable to resumption by the Government for the reason of violation of the non-alienation condition. On that apprehension, it was not mentioned.

71. It is to be noted that a registration of document itself is an constructive notice to the public regarding the execution and contents of the said document. If the registered GPA contained recitals regarding the execution of the sale agreement, there was a likelihood of the competent authority taking note of the execution of the sale agreement pertaining to the suit property during the non-alienation period. That would have resulted in the resumption of the suit property to the Government for violation of the grant order. Therefore, it can be

held that in view of such apprehension, the execution of the sale agreement was not mentioned in the GPA.

72. It is to be noted that mere execution of an agreement does not itself create any right, title, or interest in the vendee, and that does not transfer the property. Therefore, merely entering into an agreement does not *ipso facto* violate the grant order. However, the apprehension of the parties to enter such a transaction in a registered document cannot be brushed aside. Therefore, the justification offered by the defendant that, in view of the apprehension of resumption of the suit property, the transaction of the sale agreement was not entered in Ex. P1 (i.e., the GPA dated 15.09.2009), is acceptable.

73. In view of the above discussion, it is abundantly clear that the defendant is in possession of the suit property as on the date of the suit, not on the strength of the GPA dated 15.09.2009, but rather on the strength of the sale agreement dated 16.03.2009. The plaintiff has failed to prove his possession and the alleged interference by the defendant.

Accordingly, Issue No.2 and 3 are answered in the Negative.

74. **Issue No.4:-** As discussed above, the GPA dated 15.09.2009 was not an irrevocable general power of attorney. Hence, it can be revoked as per the provision contemplated under Section 201 of the Indian Contract Act. It is to be noted that, although a revocable general power of attorney (i.e., Ex. P1) can be revoked by the principal (i.e., the plaintiff) unilaterally, in view of the registration of Ex. P1, the same shall be done by way of execution of a deed of cancellation.

75. However, Section 201 of the Indian Contract Act also provides that upon the death of either the principal or the agent, the revocable general power of attorney stands revoked. In the case at hand, though the plaintiff did not resort to the proper procedure for cancellation of the suit GPA dated 15.09.2009, in view of the death of the plaintiff who was the principal of the GPA, the said GPA stands revoked. Since the said document is a registered document, it is necessary to issue an intimation to the

Sub-Registrar for making the necessary entry in the books maintained for that purpose. ***Accordingly, Issue No. 4 is answered in the Affirmative.***

76. **Issue No.5:-** As discussed above in Issue Nos. 2 and 3, this Court found that the defendant is in possession of the suit property on the strength of the sale agreement (i.e., Ex. D16 dated 16.03.2009). Regardless of the legality and enforceability of the sale agreement dated 16.03.2009, the defendant has established his possession over the suit property. In the present case, which is filed by the plaintiff seeking the additional relief of permanent injunction, this Court need not delve into the issue of enforceability and legality of the sale agreement. Rather, such Ex. D16 sale agreement suggests an inference regarding the defendant's possession over the suit property. Therefore, the plaintiffs, who are not at all in possession of the suit property, cannot seek the relief of a permanent injunction. ***Accordingly, Issue No. 5 is answered in the Negative.***

77. **Issue No.6:** In view of the aforesaid discussion, this Court proceeds to pass the following:

O R D E R

The suit of the plaintiff is partly decreed with costs.

It is declared that the registered GPA dated 15.09.2009 bearing SR No. SKP-4/22/2009-10, executed by the plaintiff in favour of the defendant, stands revoked/cancelled.

The suit of the plaintiff with respect to the relief of permanent injunction is dismissed.

The Office is directed to issue an intimation to the Sub-Registrar, Shikaripura, for making the necessary entry regarding the cancellation of the registered general power of attorney executed by the plaintiff in favour of the defendant dated 15.09.2009 bearing SR No. SKP-4/22/2009-10.

Draw the decree accordingly.

(Dictated to the Stenographer, typed by her directly through computer, corrected by me and then pronounced in the open court on this the 11th day of August 2026)

(Dhananjay Hegde)
I Addl., Civil Judge & JMFC.,
Shikaripura.

ANNEXURE

I. List of witnesses examined on behalf of plaintiff/s:

PW1 : Manjunatha.M.K

III. List of witnesses examined on behalf of defendant/s:

DW1 : Manjunatha K

DW2 : Mahendrappa

II. List of documents exhibited on behalf of plaintiff/s:

Ex.P1 : Certified copy of GPA

Ex.P2 : Legal notice

Ex.P3 : RTC

Ex.P4 : Paper publication

IV. List of documents exhibited on behalf of defendant/s:

Ex.D1 : GPA

Ex.D2 : Notice

Ex.D3	:	Postal covers
Ex.D4	:	Postal acknowledgment
Ex.D5	:	Receipt
Ex.D6	:	Certificate
Ex.D7 to10:	:	Receipt
Ex.D11	:	Borewell service receipt
Ex.D12	:	Borewell drilling reported
Ex.D13	:	Tax invoice
Ex.D14	:	Pass book
Ex.D15	:	RTC
Ex.D16	:	Sale agreement
Ex.D17	:	Order sheet in OS No.154/2026
Ex.D18	:	C/c of the plaint in OS No.154/2026
Ex.D19	:	Tax paid receipt
Ex.D20	:	Receipt issued by the Bore well service
Ex.D21to25:	:	Photographs
Ex.D26	:	Pendrive

(Dhananjay Hegde)
*I Addl., Civil Judge & JMFC.,
Shikaripura.*