



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR FIRST APPEAL NO. 293 OF 2012 (RES)

BETWEEN:

1. K.P. RAMACHANDRAN
S/O N SANKARAN NAIR
AGED ABOUT 64 YEARS
SARADAMANDIRAM, CHANGILERI
MANNARGHAT-678 582
PALGHAT DISTRICT, KERALA
PRESENTLY AT C/O P.P.RADHAKRISHNAN
44,"MANGALYA", 5TH MAIN
KORAMANGALA
BANGALORE-560 034.

...APPELLANT

(BY SRI. K.P. THRIMURTHY, ADVOCATE)

AND:

1. KALAPPA
S/O BYRAPPA
AGED ABOUT 72 YEARS
SINCE DEAD BY LRS
- 1(1) SRI. K. NARAYANA SWAMY
S/O LATE KALAPPA
AGED ABOUT 56 YEARS
- 1(2) SRI. K. KEMPANNA
S/O LATE KALAPPA
AGED ABOUT 54 YEARS
- 1(3) SRI. K. NAGARAJU



S/O LATE KALAPPA
AGED ABOUT 51 YEARS

ALL ARE R/AT KAGADASAPURA VILLAGE
VARTHUR HOBLI
BANGALORE EAST TALUK
BANGALORE.

2. K. SUBBA RAO
S/O KRISHNOJI RAO
AGED ABOUT 52 YEARS
R/A C.V.RAMAN NAGAR POST
GURUKAMANTHANAPALYA
BANGALORE-93.

[CAUSE TITLE AMENDED VIDE COURT ORDER]

...RESPONDENTS

(BY SRI. THIRUMALLESH .K, ADVOCATE FOR R1(1 TO 3);
V/O DATED 01.02.2023 NOTICE TO R2 IS D/W)

THIS RFA IS FILED UNDER SEC.96 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 31.10.2011 PASSED IN
O.S.NO.8208/2006 ON THE FILE OF THE XLIII ADDL. CITY
CIVIL & SESSIONS JUDGE, BANGALORE, (CCH 44),
DISMISSING THE SUIT FOR EXECUTION OF THE
RECTIFICATION DEED.

THIS APPEAL, COMING ON FOR DICTATING JUDGMENT,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM



ORAL JUDGMENT

The captioned appeal is by the unsuccessful plaintiff directed against the judgment and decree rendered in O.S.No.8208/2006 whereby plaintiff's suit seeking rectification of sale deed dated 17.08.1989 and for consequential relief of injunction is dismissed by the trial Court.

2. For the sake of convenience, the parties are referred to as per their rank before the trial Court.

3. The facts leading to the case are as under:

Plaintiff instituted the suit seeking rectification of the sale deed dated 17.08.1989 executed by defendant No.2 as a GPA holder of defendant No.1 on the ground that the measurements of the suit schedule property are wrongly reflected North-South and East-West due to typographical error. Plaintiff specifically asserted that defendant No.1 is the owner and he formed two sites bearing Nos.1 and 2 in Survey No.55/2 and executed a GPA on 12.05.1989 coupled with interest in favour of defendant No.2.



Defendant No.1 received entire sale consideration from defendant No.2 and defendant No.2 as a GPA holder offered to sell the suit schedule property (site No.2) and accordingly, executed the sale deed on 17.09.1989.

4. Plaintiff has instituted the present suit by specifically asserting that in December 2004, plaintiff noticed error and therefore, issued a notice to defendants to execute rectification deed and rectify the error that has crept in the schedule.

5. After receipt of summons, defendant Nos. 1 and 2 entered appearance. Defendant No.1 filed written statement and admitted that he is the owner of the suit schedule property, however, stoutly denied the alleged GPA executed in favour of defendant No.2 evidence at Ex.P.6. Defendant No.1 however asserted that he had retained the suit schedule property and later he has sold the same in favour of Manjulabai and Savithri through registered sale deed and the remaining portion is retained



by him. Defendant No.1 has alleged that plaintiff in collusion with defendant No.2 has created documents and therefore, disputed plaintiff's title.

6. The trial Court based on rival pleadings formulated issues and the parties were relegated to prove their case based on the issues framed by the trial Court. Plaintiff and defendant No.1 have adduced oral and documentary evidence in support of their case. The trial Court has dismissed the suit on a presumption that defendant No.2 has conveyed the suit schedule property to plaintiff as a owner based on the GPA and it is in this backdrop, trial Court was of the view that issue No.1 casting burden on the plaintiff to prove the alleged typographical error indicated in the sale deed obtained by the plaintiff does not survive for consideration. The suit is accordingly, dismissed.

7. Heard the learned counsel on record. This Court has independently assessed oral and documentary



evidence. The following points would arise for consideration:

(i) *Whether trial Court erred in holding that plaintiff has no valid title over the suit schedule property by misapplying the principles laid down in **Suraj Lamp & Industries Private Limited vs. State of Haryana**¹, when the plaintiff's claim is based on registered sale deed executed by defendant No.2 as a GPA holder of defendant No.1?*

(ii) *Whether the trial Court erred in not examining as to whether defendant No.1 has succeeded in proving that the GPA dated 12.05.1989 vide Ex.P6, executed in favour of defendant No.2 was validly cancelled prior to execution of sale deed dated 17.08.1989?*

(iii) *Whether mere endorsement of cancellation of original GPA amounts to lawful revocation in the eye of law?*

(iv) *Whether plaintiff proves that incorrect interchange of measurements (North-South and*

¹ AIR 2012 SC 206



East- West) is a typographical error that has crept in due to mutual mistake committed by the Vendor and Vendee warranting rectification under Section 26 of the Specific Relief Act, 1963?

(v) What Order?"

Finding on Point No.(i):

8. On a careful re-appreciation of the pleadings and evidence on record, this Court finds that the very foundation on which the trial Court proceeded is fundamentally erroneous. The plaintiff's title is not predicated upon a mere power of attorney transaction, but rests upon a registered sale deed dated 17.08.1989, executed by defendant No.2 in his capacity as the duly authorised General Power of Attorney holder of defendant No.1. The ratio laid down in ***Suraj Lamp*** (supra) is confined to transactions where parties sought to effect transfer of immovable property through GPA, Affidavit and Will, without execution of a registered conveyance, and it



was in that context that the Hon'ble Apex Court held that such arrangements do not convey title nor create any interest in immovable property. The said principle cannot be extended to a case where a valid and registered sale deed is executed by an agent acting within the scope of authority conferred by the principal, which is a recognised and lawful mode of transfer under the Transfer of Property Act, 1882.

9. In the present case, the conveyance in favour of the plaintiff is through a registered instrument, and the GPA operates only as the source of authority enabling defendant No.2 to execute the sale on behalf of defendant No.1.

10. Therefore, the title flows from the registered sale deed and not from the GPA *per se*. The trial Court, by conflating a GPA sale with a sale executed through a GPA holder, has clearly misapplied the ratio of ***Suraj Lamps*** (supra) and thereby arrived at an unsustainable



conclusion. Consequently, the finding recorded by the trial Court that the plaintiff has no valid title over the suit schedule property is liable to be set aside. Accordingly, Point No.(i) is answered in the ***Affirmative***.

Finding on Point No.(ii):

10. The next question that arises for consideration is whether defendant No.1 has succeeded in establishing that the General Power of Attorney executed in favour of defendant No.2 stood validly cancelled prior to the execution of the registered sale deed dated 17.08.1989. The burden to prove such cancellation squarely rests upon defendant No.1, who asserts revocation of the authority conferred upon defendant No.2. To better understand the title of the Defendant No.2, this court deems it fit to extract the relevant GPA and Affidavit. Same are extracted which read as under:

"ಜನರಲ್ ಪವರ್ ಆಫ್ ಅಟಾರ್ನಿ

X X X X



1) ಸದರಿ ಷೆಡ್ಯೂಲು ಸ್ವತ್ತಿನ ಸ್ವಾಧೀನವನ್ನು ಈ ದಿನವೇ ನಿಮ್ಮ ಸಂಪೂರ್ಣ ಸ್ವಾಧೀನಕ್ಕೆ ಬಿಟ್ಟುಕೊಟ್ಟಿರುತ್ತೇನೆ. ಇನ್ನು ಮುಂದೆ ಸದರಿ ಷೆಡ್ಯೂಲು ಸ್ವತ್ತಿಗೆ ಪಾವತಿ ಮಾಡಬೇಕಾದ ಕಂದಾಯ ವಗೈರೆ ತೆರಿಗೆಗಳನ್ನು ಸರ್ಕಾರಕ್ಕೆ ಪಾವತಿ ಮಾಡುತ್ತಾ ಖಾತೆಯನ್ನು ನಿಮ್ಮ ಹೆಸರಿಗೆ ವರ್ಗಾಯಿಸಿಕೊಳ್ಳುವುದಕ್ಕೂ."

"ಪ್ರಮಾಣ ಪತ್ರ

X X X X

ಬೆಂಗಳೂರು-93, ಗರುಕಮಂತನಪಾಳ್ಯ, ಸಿ.ವಿ.ರಾಮನ್‌ನಗರ ಪೋಸ್ಟ್, ಇಲ್ಲಿ ವಾಸವಾಗಿರುವ ಶ್ರೀ ಕೃಷ್ಣೇಬಿರಾವ್ ರವರ ಮಗ ಸುಮಾರು 30 ವರ್ಷ ವಯಸ್ಸುಳ್ಳ ಶ್ರೀ ಕೆ.ಸುಬ್ಬರಾವ್ ಆದ ನಿಮಗೆ, ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು, ಕೃಷ್ಣರಾಜಪುರಂ ಹೋಬಳಿ, ಭೈರಸಂದ್ರ ಗ್ರಾಮದ ಸರ್ವೆ 55/2 ನೇ ನಂಬರು ಜಮೀನಿನಲ್ಲಿ ವಿಂಗಡಿಸಿರುವ ಸೈಟುಗಳಲ್ಲಿ ಈ ದಿನ ನಿಮಗೆ ಕ್ರಯಕ್ಕೆ ಕೊಟ್ಟಿರುವ 1 ಮತ್ತು 2 ನೇ ನಂಬರು ಸೈಟಿನ ಒಟ್ಟು ಅಳತೆ ಪೂರ್ವ ಪಶ್ಚಿಮ : 160-0 (ಒಂದು ನೂರ ಅರವತ್ತು) ಅಡಿಗಳು, ಉತ್ತರ ದಕ್ಷಿಣ : (60+40)/2 ಅಡಿಗಳು, ಈ ರೀತಿ ಅಳತೆಯುಳ್ಳ ಜಾಗದಲ್ಲಿ ಸುಮಾರು 25-0 ಅಡಿ ರಸ್ತೆಯನ್ನು ಬಿಟ್ಟು ಮತ್ತು ಸದರಿ ಜಾಗದಲ್ಲಿ ಸುಮಾರು 10 ತೆಂಗಿನ ಗಿಡಗಳು ಇರುವ ಸ್ವತ್ತನ್ನು ಈ ದಿನ ನಿಮಗೆ ಗೌರ್ಮೆಂಟ್ ಚಲಾವಣೆ ರೂಪಾಯಿ 45,000-00 (ನಲವತ್ತೈದು ಸಾವಿರ) ರೂಪಾಯಿಗಳಿಗೆ ಶುದ್ಧ ಕ್ರಯಕ್ಕೆ ಕೊಟ್ಟು ಕ್ರಯದ ಮೊಬಲಗು ಪೂರ್ತಾ ನಗದಾಗಿ ನಲವತ್ತೈದು ಸಾವಿರ ರೂಪಾಯಿಗಳನ್ನು ಈ ದಿನ ಈ ಪತ್ರದ ಮುಖೇನ ನಿಮ್ಮಿಂದ ಪೂರ್ತಿಯಾಗಿ ಪಡೆದುಕೊಂಡಿರುತ್ತೇನೆ. ಇನ್ನೇನು ಕ್ರಯದ ಮೊಬಲಗು ಬಾಕಿ ಬರಬೇಕಾದ್ದು ಇರುವುದಿಲ್ಲವಾದುದರಿಂದ ಸದರಿ ಮೇಲ್ಕಂಡ ಸ್ವತ್ತಿನ ಸ್ವಾಧೀನವನ್ನು ಈ ದಿನವೇ ನಿಮ್ಮ ಸಂಪೂರ್ಣ ಸ್ವಾಧೀನಕ್ಕೆ ಬಿಟ್ಟುಕೊಟ್ಟಿರುತ್ತೇನೆ. ಇನ್ನು ಮುಂದೆ ಸದರಿ ಸ್ವತ್ತಿನಲ್ಲಿ ನಿಮ್ಮ ಇಷ್ಟಾನುಸಾರವಾಗಿ ಮನೆ ವಗೈರೆಗಳನ್ನು ಕಟ್ಟಿಕೊಂಡು ನಿಮ್ಮ ಪುತ್ರ ಪೌತ್ರ ವಂಶ ಪಾರಂಪರ್ಯವಾಗಿ ಸುಖದಿಂದ ಅನುಭವಿಸಿಕೊಂಡು



ಬರತಕ್ಕದ್ದು. ಸದರಿ ಸೈಟಿನ ಬಗ್ಗೆ ಕಂದಾಯ ವಗೈರೆ ತೆರಿಗೆಗಳನ್ನು ಸರ್ಕಾರಕ್ಕೆ ಪಾವತಿ ಮಾಡುತ್ತಾ ಖತೆಯನ್ನು ನಿಮ್ಮ ಹೆಸರಿಗೆ ವರ್ಗಾಯಿಸಿಕೊಳ್ಳುವುದು. ಸದರಿ ಸೈಟಿನ ಬಗ್ಗೆ ರಿಜಿಸ್ಟರ್ ಆಗಲು ಸರ್ಕಾರದ ತುಂಡು ಭೂಮಿ ಕಾಯಿದೆ ಇರುವುದರಿಂದ ಇನ್ನು ಮುಂದೆ ಸದರಿ ಕಾಯಿದೆ ರದ್ದಾದಗ ನೀವು ಯಾವಾಗ ಕರೆದರೂ ಬಂದು ನಿಮ್ಮ ಹೆಸರಿಗೆಗಾಗಲೀ ಅಥವಾ ನೀವು ತಿಳಿಸುವವರ ಹೆಸರಿಗಾಗಲೀ ಕ್ರಮವಾದ ರಿಜಿಸ್ಟರ್ ಮಾಡಿಸಿ ಕೊಡುತ್ತೇನೆ. ಅದಕ್ಕೆ ತಗಲುವ ವಿಶಿಷ್ಟ ಖರ್ಚುಗಳೆಲ್ಲವೂ ನಿಮಗೆ ಸೇರಿದ್ದಾಗಿರುತ್ತೇ. ನಾನು ಪ್ರತ್ಯೇಕವಾಗಿ ಬಂದು 1 ಮತ್ತು 2ನೇ ಸೈಟ್‌ಗಳಿಗೆ ರಿಜಿಸ್ಟರ್ ಮಾಡಿಸಿ ಕೊಡುತ್ತೇನೆ. ಆಗ್ಗೆ ನಾನು ನಿಮ್ಮಿಂದ ಯಾವುದೇ ಪ್ರತಿಫಲವನ್ನೂ ಪಡೆಯುವುದಿಲ್ಲ. ಸದರಿ ಸೈಟಿನ ಬಗ್ಗೆ ಈ ದಿನ ನಿಮ್ಮ ಹೆಸರಿಗೆ ಜಿ.ಪಿ.ಎ ಪತ್ರ ಮತ್ತು ಸದರಿ ಪ್ರಮಾಣ ಪತ್ರಗಳನ್ನು ಬೆಂಗಳೂರು ಸಿಟಿ ನೋಟರಿಯವರ ಸಮಕ್ರಮ ದೃಢೀಕರಿಸಿಕೊಟ್ಟಿರುತ್ತೇನೆ. ಸದರಿ ಪತ್ರಗಳನ್ನು ನಾನು ಯಾವ ಕಾರಣದಿಂದಲೂ ರದ್ದುಪಡಿಸುವುದಿಲ್ಲ. ಎಂಬುದಾಗಿ ನನ್ನ ಖುದ್ದು ರಾಜಿಯಿಂದ ಪ್ರಮಾಣೀಕರಿಸುತ್ತೇನೆ.

ಈ ಮೇಲ್ಕಂಡ ಅಂಶಗಳೆಲ್ಲವೂ ಸತ್ಯವಾಗಿರುತ್ತವೆ."

(Emphasis Supplied)

11. On a careful and conjoint reading of the General Power of Attorney (Ex.P6), the affidavit (Ex.P7), and the acknowledgment of payment receipt in the affidavit, this Court finds that the authority conferred upon defendant No.2 is not a bare or simpliciter agency, but one coupled with interest. The recitals in the affidavit unmistakably disclose that defendant No.1 agreed to convey the suit



property for a total consideration of Rs.45,000/-, out of which a substantial portion, namely Rs.25,000/-, was admittedly received in advance, with a stipulation for payment of the balance within a short stipulated period. The contemporaneous execution of the General Power of Attorney authorising defendant No.2 not merely to manage, but to alienate the property, execute sale deeds, present documents for registration and receive consideration, clearly demonstrates that the authority was granted in furtherance of and to secure the proprietary interest created in favour of defendant No.2 under the agreement of sale. The payment receipt evidences part-performance and fortifies the existence of a vested interest in praesenti.

12. In this backdrop, the agency squarely falls within the ambit of Section 202 of the Indian Contract Act, 1872, which postulates that "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.” The legislative intent underlying Section 202 is to protect an agent whose authority is backed by a beneficial interest in the subject matter, so that the principal cannot, by unilateral act, defeat or render nugatory the rights already created in favour of the agent. The provision constitutes a clear exception to the general rule embodied in Sections 201 and 203 of the Act relating to revocation of agency.

13. In the present case, the covenants in the agreement and the receipt of substantial consideration unmistakably create an enforceable interest in favour of defendant No.2, and the execution of the GPA is integrally connected with and intended to effectuate that interest. Therefore, the authority conferred under Ex.P6 is irrevocable in law, unless it is shown that there existed an express contract permitting revocation notwithstanding such interest, which is conspicuously absent in the present case. The alleged unilateral cancellation of the GPA by



defendant No.1, evidenced only by an endorsement and not by a duly executed and communicated instrument, is thus legally ineffectual and non est insofar as it purports to extinguish the authority coupled with interest.

14. Consequently, the execution of the registered sale deed dated 17.08.1998 by defendant No.2, acting as GPA holder, cannot be impeached on the ground of such unilateral cancellation. The said conveyance is a valid exercise of authority protected under Section 202 of the Indian Contract Act, 1872 and is binding on defendant No.1.

15. Upon a careful and independent scrutiny of the oral and documentary evidence placed on record, this Court finds that defendant No.1 has not produced any registered deed of revocation or any contemporaneous document evidencing lawful cancellation of the power of attorney. There is also a conspicuous absence of material to indicate that such alleged revocation was ever



communicated to defendant No.2 or brought to the notice of third parties, including prospective purchasers.

16. The only material relied upon by defendant No.1 is an endorsement said to have been made on the original power of attorney document indicating cancellation. Such an endorsement, in the considered view of this Court, is wholly insufficient to constitute a valid revocation in the eye of law. A power of attorney, particularly one dealing with immovable property transactions, cannot be annulled by a unilateral and informal act lacking legal sanctity and evidentiary value.

17. It is a settled principle that for revocation of an agency to be effective, especially insofar as it affects third-party rights, the same must be clear, unequivocal, and duly communicated. In the absence of such communication, the agent is entitled to continue to act on the authority originally conferred, and any acts done



within the apparent scope of such authority would bind the principal.

18. In the present case, there is no evidence to demonstrate that defendant No.2 was put on notice of the alleged revocation, nor is there any material to show that the plaintiff, as a purchaser, had knowledge of any such cancellation. In such circumstances, the plea of revocation set up by defendant No.1 cannot be accepted.

19. Therefore, this Court is of the considered opinion that defendant No.1 has failed to discharge the burden of proving that the power of attorney was validly cancelled prior to the execution of the sale deed, and the finding recorded by the trial Court on this aspect is wholly misconceived and warrants interference at the hands of this Court. Accordingly, Point No.(ii) is answered in the ***Affirmative.***



Finding on Point No.(iii):

20. The answer to this issue must be examined in the backdrop of the settled principles governing agency under the Indian Contract Act, 1872. A power of attorney is a formal instrument whereby authority is created in favour of an agent to act on behalf of the principal. The revocation of such authority is governed by Sections 201 to 203 of the Indian Contract Act, 1872. While Section 201 recognizes termination of agency by revocation of authority, such revocation must be effected in a manner known to law and must satisfy the requirements of legal certainty.

21. Further, Section 207 of the Act contemplates that revocation may be express or implied; however, such revocation, particularly when it concerns transactions involving immovable property and rights of third parties, must be clear, unequivocal and capable of proof through legally admissible evidence. More importantly, Section 208 of the Act mandates that termination of the authority of an



agent does not take effect, insofar as third parties are concerned, until it becomes known to them. Thus, communication of revocation assumes critical significance, especially in cases where third-party rights have intervened.

22. In the present case, the only material relied upon by defendant No.1 is an alleged endorsement made on the original GPA purporting to cancel the authority granted to defendant No.2. Such an endorsement, in the considered view of this Court, falls woefully short of the legal requirements contemplated under the Contract Act. There is neither any registered instrument of revocation nor any acceptable evidence to demonstrate that such revocation was communicated either to defendant No.2 or to third parties dealing with him.

23. In transactions relating to immovable property, where acts of the agent culminate in execution of registered conveyances, the law requires a higher degree



of certainty and formality in revocation. A unilateral endorsement, lacking statutory compliance and evidentiary backing, cannot be recognised as a lawful cancellation of authority.

24. Therefore, this Court is of the considered opinion that mere endorsement of cancellation on the original GPA does not amount to lawful revocation, and the plea set up by defendant No.1 in this regard is unsustainable. Accordingly, Point No.(iii) is answered in the ***Negative***.

Finding on Point No.(iv):

25. Section 26 of the Specific Relief Act, 1963 provides that where, through fraud or mutual mistake of the parties, a written instrument does not express their real intention, the Court may direct rectification of the instrument so as to bring it in conformity with the true intent of the parties.



26. In the present case, the registered sale deed dated 17.08.1989 clearly identifies the property conveyed as site No.2 formed in Survey No.55/2, and the boundaries of the property are specifically and consistently described. The identity of the property is thus certain and unambiguous. The only discrepancy pointed out by the plaintiff pertains to the interchange of North-South and East-West measurements in the schedule. Such an inconsistency, when viewed in the context of otherwise consistent boundaries and identification, unmistakably points towards a clerical or typographical error.

27. It is also relevant to note that defendant No.1 has not placed any cogent or convincing material to demonstrate that the measurements as recorded in the sale deed were intentionally incorporated or that the plaintiff is attempting, under the guise of rectification, to alter or enlarge the extent of the property conveyed. On the contrary, the surrounding circumstances, including the description of boundaries and the nature of the



transaction, probabalise the case of the plaintiff that the error occurred during the drafting of the document and does not reflect the true intention of the parties.

28. The jurisdiction of the Court under Section 26 of the Specific Relief Act, 1963, is precisely to address such situations where, due to mutual mistake, the written instrument fails to embody the real agreement between the parties. When the intention is clear and the mistake is purely clerical, refusal to rectify would result in perpetuating an error contrary to the parties' intent.

29. This Court is therefore satisfied that the incorrect interchange of measurements is a typographical error arising out of mutual mistake, and the plaintiff has made out a clear case for rectification of the sale deed. Accordingly, Point No.(iv) is answered in the ***Affirmative***.

Finding on Point No.(v):

30. In view of the findings recorded on Point Nos.(i) to (iv), this Court is of the considered opinion that the



judgment and decree passed by the trial Court suffer from serious errors in appreciation of both facts and law and therefore cannot be sustained. The plaintiff has successfully established his title to the suit schedule property based on a registered sale deed executed by a duly authorised power of attorney holder, and has further demonstrated that the error in the schedule of the sale deed is a clerical mistake warranting rectification under Section 26 of the Specific Relief Act, 1963.

31. The defence set up by defendant No.1, premised on alleged invalidity of the GPA, its purported cancellation, and the issue of consideration, has been found to be devoid of merit and insufficient to defeat the plaintiff's lawful claim. Consequently, this Court is of the view that the plaintiff is entitled to the relief sought, and the suit deserves to be decreed by granting rectification of the sale deed so as to reflect the true intention of the parties.



CONCLUSIONS AND REASONS FOR REVERSAL

32. Upon a comprehensive re-appreciation of the entire material on record, this Court finds that the judgment and decree passed by the trial Court are vitiated by misapplication of settled legal principles, erroneous appreciation of evidence, and failure to address the core controversy involved in the suit. The impugned judgment therefore warrants interference.

33. The foremost error committed by the trial Court lies in its misapplication of the law laid down in ***Suraj Lamps and Industries Pvt. Ltd.*** (supra). The trial Court proceeded on the erroneous assumption that the plaintiff's claim was founded on a GPA transaction, whereas, in fact, the plaintiff's title flows from a registered sale deed executed by defendant No.2 as the duly authorised power of attorney holder of defendant No.1. The distinction between a "GPA sale" and a "sale executed through a GPA holder" has been completely overlooked, leading to a



fundamentally flawed conclusion that the plaintiff has no valid title.

34. The trial Court has further failed to appreciate that defendant No.1 has not effectively disputed the execution of the GPA in favour of defendant No.2 in a manner known to law. Even otherwise, the burden of proving lawful revocation of the GPA squarely rested upon defendant No.1. The trial Court, however, has not properly examined whether such revocation was established in accordance with Sections 201 to 208 of the Indian Contract Act, 1872.

35. The finding of the trial Court regarding cancellation of the GPA is equally unsustainable. The so-called cancellation is based merely on an endorsement on the original document, which does not satisfy the legal requirements of revocation. The trial Court has failed to consider that, in law, revocation must be clear, legally proved, and communicated, particularly when third-party



rights are involved. The absence of any registered revocation deed or proof of communication renders the defence of cancellation untenable.

36. More importantly, the trial Court has completely ignored the legal position under Section 202 of the Indian Contract Act, 1872, which provides that an agency coupled with interest cannot be revoked to the prejudice of such interest. The material on record indicates that the authority granted to defendant No.2 was in furtherance of a transaction involving consideration, thereby attracting the doctrine of agency coupled with interest, which further weakens the plea of unilateral revocation.

37. The trial Court has also failed to consider that the grievance of defendant No.1 regarding non-payment or inadequate payment of sale consideration is a matter inter se between the principal and the agent. Such a dispute cannot invalidate a sale executed in favour of a third party purchaser under a registered instrument. The



remedy of defendant No.1, if any, lies in seeking recovery from defendant No.2, and not in disputing the plaintiff's title.

38. Another significant error committed by the trial Court is its failure to adjudicate upon the principal relief sought by the plaintiff, namely, rectification of the sale deed under Section 26 of the Specific Relief Act, 1963. The trial Court has erroneously held that the issue regarding typographical error does not survive for consideration, which amounts to abdication of jurisdiction.

39. The evidence on record clearly establishes that the identity of the property is certain, the boundaries are consistent, and the discrepancy is confined only to the interchange of North-South and East-West measurements, which is demonstrably a clerical error arising out of mutual mistake. The trial Court has failed to appreciate this crucial aspect and has thereby denied relief on untenable grounds.



40. The cumulative effect of these errors demonstrates that the findings recorded by the trial Court are perverse, contrary to the evidence on record, and unsustainable in law. The judgment reflects a failure to apply the correct legal principles governing transfer of property through an authorised agent, revocation of agency, and rectification of instruments.

41. For all the aforesaid reasons, this Court is of the considered opinion that the impugned judgment and decree passed by the trial Court are liable to be set aside, and the suit filed by the plaintiff deserves to be decreed as prayed.

42. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

(i) The appeal is ***allowed***;

(ii) The judgment and decree dated 31.10.2011 passed in O.S.No.8208/2006 by the



XLIII Additional City Civil & Sessions Judge,
Bangalore, are hereby set aside;

(iii) The suit filed by the plaintiff is
decreed;

(iv) It is declared that the discrepancy in
the schedule to the registered sale deed dated
17.08.1989, relating to interchange of North-
South and East-West measurements, is a
clerical/typographical error arising out of
mutual mistake of the parties;

(v) Consequently, the plaintiff is entitled
to rectification of the sale deed under Section
26 of the Specific Relief Act, 1963, and it is
ordered that the measurements in the schedule
to the sale deed shall stand rectified by
correctly reflecting the North-South dimension
as 55 feet + 55 feet / 2 and East-West
dimensions as 68 feet, in accordance with the
true intention of the parties and consistent
boundaries;

(vi) Defendant No.1 and defendant No.2
are hereby directed to execute a registered
rectification deed incorporating the correct



measurements within a period of three (3) months from the date of receipt of a copy of this judgment;

(vii) In the event of failure on the part of the defendants to execute the rectification deed within the stipulated time, the plaintiff is at liberty to have the same executed through process of Court, in accordance with law;

(viii) In view of the decree for rectification, the plaintiff's title over the suit schedule property, as described with corrected measurements, stands confirmed;

(ix) No order as to costs.

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

CA
List No.: 2 Sl No.: 144