



RSA-2784-2019 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**RSA-2784-2019 (O&M)
Reserved on:- 29.10.2025
Date of Decision :04.11.2025**

Puran Chand (since deceased) through LRs

....Appellants

VERSUS

Sandeep Kumar and Another

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Ms. Ekta Thakur, Advocate and
Ms. Sakshi Sharma, Advocate for the appellants.

Mr. Sanjiv Gupta, Senior Advocate assisted by
Mr. Aayush Bansal, Advocate for the respondents.

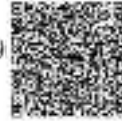
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MANDEEP PANNU, J.

1. The present Regular Second Appeal has been filed by the appellant–plaintiff, Puran Chand, assailing the concurrent findings of the learned Courts below. The trial Court, vide its judgment and decree dated 03.07.2015, dismissed the suit filed by the plaintiff and allowed the counter-claim filed by the defendants. The appeal preferred by the plaintiff before the learned Lower Appellate Court also came to be dismissed vide judgment and decree dated 09.05.2019. Aggrieved therefrom, the present Regular Second Appeal has been preferred.

Brief Facts

2. The case of the plaintiff, as pleaded in the plaint, is that he is in lawful and legal possession of house No. 222, Sector 44-A, Chandigarh, since June 1997. He asserts that he purchased the said single-storey house through indirect sale documents, including an affidavit, and has been in continuous peaceful possession

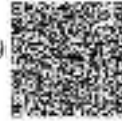
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ever since. The plaintiff avers that he constructed the first and second floors of the said house from his hard-earned money and with the assistance of a loan taken by his daughter, Smt. Anu Bala, who is now married and settled. It is further pleaded that the plaintiff executed a Sub-General Power of Attorney in favour of defendant No.1, Sandeep Kumar, his son, only for a limited purpose of dealing with official matters pertaining to electricity, water, the Estate Office, and the Chandigarh Housing Board. The plaintiff contends that the said Power of Attorney was never intended to confer ownership rights upon the defendant. It is alleged that the brother-in-law of defendant No.1, namely Anurag Sandal, a person of criminal background allegedly involved in a bank dacoity, has been threatening the plaintiff to vacate the premises and hand over its possession. The plaintiff claims to have made several requests to the defendants and Anurag Sandal not to interfere in his peaceful possession, but to no avail. According to the plaintiff, the defendants, acting in connivance with police officials, lodged a false and frivolous complaint dated 21.03.2009, with an intent to dispossess the plaintiff illegally. It is also alleged that defendant No.1 and his associates have been continuously harassing and pressuring the plaintiff to vacate the premises. The said acts compelled the plaintiff to institute the present suit for permanent injunction, seeking to restrain the defendants, their agents, and family members from interfering with his peaceful possession of the house. The plaintiff further pleaded that he has been in open, continuous, and peaceful possession of the house since 1997 and that the defendants have no right, title, or interest in the same. He maintains that the house in question was purchased from the sale proceeds of his previously owned property, being House No. 1099, Sector 11, Panchkula, which in turn had been purchased by him after selling a 10-marla house allotted to him at Phase 4, S.A.S.

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Nagar, Mohali. Thus, according to the plaintiff, the entire consideration for the disputed property was paid by him, and the defendants have not contributed even a single penny towards its purchase or construction.

3. Upon notice, the defendants appeared and filed their written statement-cum-counter claim, controverting the averments of the plaintiff. The defendants submitted that the suit is not maintainable and that the plaintiff, a practising advocate, has deliberately suppressed material facts and signed and verified false pleadings with intent to mislead the Court. It is the categorical stand of defendant No.1, Sandeep Kumar, that he is the exclusive and lawful owner of the property in question, having purchased the same for valuable consideration from the previous owner through a General Power of Attorney executed by Shri Om Prakash Sharma, the original owner. It is averred that the said Power of Attorney dated 22.04.1997 was duly registered on 27.05.1997, and on the strength thereof, the defendant got the property converted into freehold by the Estate Office, Chandigarh Administration, after paying all requisite conversion charges. It is further pleaded that after purchasing the property, defendant No.1 renovated and furnished the house with expensive furniture, fixtures, and household articles including dining tables, steel almirahs, double beds, gas connection, washing machine, and other household effects, all purchased by him. The defendants assert that the plaintiff and his wife, Smt. Rattan Rani, being the biological parents of defendant No.1, were allowed to reside on the ground floor of the house merely as licensee, without payment of any licence fee, out of love and affection. It is alleged that the plaintiff later started acting contrary to the interest of the defendant, began misappropriating rent from tenants on the upper floors, and even issued rent receipts in his own name by falsely claiming ownership. The defendants state that

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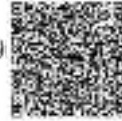
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license was terminated vide notice dated 30.03.2009, granting the plaintiff time until 15.04.2009 to vacate the premises. Despite receipt of the said notice, the plaintiff neither vacated the premises nor paid any damages.

4. It is also averred that the plaintiff, in collusion with others, including Ravi kant, Smt. Vijay Kumari, Anu Bala, and her husband Sushil Gupta, fabricated false documents and aided strangers in using the disputed property's address for preparing forged documents. Defendant No.1 further alleged that on 21.03.2009, the plaintiff and his associates created a situation of lawlessness and even assaulted Smt. Poonam Sandal, wife of defendant No.1, and their children. The defendant also averred that the plaintiff executed false rent documents with one Smt. Gurvinder Kaur Sodhi on 18.08.2009, receiving substantial consideration from her by falsely representing himself as the landlord. When the said lady discovered the real ownership, disputes arose, and the matter was reported to the police. It is further alleged that the plaintiff has been retaining unlawful possession of the house by exploiting his position as an advocate and a senior citizen.

5. By way of counter-claim, the defendants sought a decree for possession by way of mandatory injunction, directing the plaintiff and all persons claiming under him to hand over vacant possession of the ground floor of House No. 222, Sector 44-A, Chandigarh, and to remove all unauthorized occupants. The defendants also claimed damages at the rate of ₹40,000 per month from 15.04.2009 till actual restoration of possession, asserting that similar properties in the vicinity fetch rent exceeding ₹40,000 per month.

6. The plaintiff filed a replication to the written statement and a reply to the counter-claim, reiterating his ownership and denying all allegations made by the defendants. He refuted the assertion that defendant No.1 had purchased the

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house for valuable consideration, contending instead that the defendant was merely a holder of a Sub-General Power of Attorney issued in his favour for limited administrative purposes. The plaintiff elaborated that as per the records of the Estate Office, Chandigarh, plot No. 222, Sector 44-A, Chandigarh, was initially allotted to Shri Om Prakash Sharma, who had executed a General Power of Attorney for management purposes in favour of Shri Ashwani Sabharwal and Shri Tarsem Sabharwal. Thereafter, Ashwani Sabharwal executed a Sub-General Power of Attorney in favour of Shri K.C. Arora, and subsequently another Sub-GPA in favour of Shri Gurdial Singh Dhillon on 29.02.1996. However, the Sub-GPA in favour of Gurdial Singh Dhillon was cancelled on 27.05.1997. The plaintiff submitted that Om Prakash Sharma had never conferred ownership rights upon any of his agents and that the Sub-GPA holders could not convey ownership beyond what was vested in the principal. It is the case of the plaintiff that Shri Gurdial Singh Dhillon had constructed a three-storey building over the said plot and thereafter sold the same to the plaintiff by way of an affidavit and other indirect documents, and handed over actual vacant physical possession along with all relevant papers. On the directions of the plaintiff, Shri Ashwani Sabharwal, who was the original GPA holder of Om Prakash Sharma, issued a Sub-General Power of Attorney in favour of defendant No.1, Sandeep Kumar, only to facilitate routine dealings with government authorities and not to transfer ownership rights. It was further agreed that neither Ashwani Sabharwal nor Gurdial Singh Dhillon would revoke the same, and the said arrangement was made only for administrative convenience.

7. The plaintiff emphasized that defendant No.1 was residing in government accommodation, namely House No. 3091, Sector 15-D, Chandigarh,

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since 1994, and therefore could not have been the purchaser of the disputed property in 1997. The plaintiff maintained that all sale considerations were paid by him from his own resources and from the sale proceeds of his previous properties at Mohali and Panchkula. He denied all allegations of misappropriation, forgery, and fabrication and asserted that he has been in continuous, peaceful, and lawful possession of the disputed house since 1997. It was accordingly prayed that the counter-claim filed by the defendants be dismissed, and the decree for permanent injunction, as sought in the suit, be granted in favour of the plaintiff.

8. From the pleadings of the parties, the learned Trial Court initially framed the following issues for determination:

1. Whether the plaintiff is entitled to the relief of injunction as prayed for? — OPP
2. Whether the suit of the plaintiff is not maintainable? — OPD 3
3. Whether the defendant is entitled for the damages as claimed in the counter-claim? — OPD
4. Whether the suit of the plaintiff has not been properly valued for the purpose of Court fee? — OPD
5. Whether defendant No.1 has not come to the Court with clean hands? — OPP 6
6. Relief.

9. During the pendency of the case, when the matter was fixed for the plaintiff's evidence and for consideration of an application under Order VII Rule 11 CPC, the plaintiff, through a separate statement, withdrew the present suit, which was accordingly dismissed as withdrawn. However, since the defendant had already filed a counter-claim, an application for recasting of issues was moved,

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which was allowed by the learned Trial Court. Consequently, the issues framed earlier on 25.08. 2010 were recalled, and the following issues were reframed on 25.04.2013 and again on 03.07.2015:

1. Whether the plaintiff is liable to handover the vacant possession of the ground floor of House No. 222, Sector 44-A, Chandigarh, along with other persons brought by him, and also damages as set up in the counter-claim? — OPD
2. Whether the suit of the plaintiff is not maintainable? — OPD
3. Relief.

10. In order to prove his case, the plaintiff, Puran Chand, himself stepped into the witness box as PW-1 and tendered into evidence his duly sworn affidavit Ex. PW-1/A, wherein he reiterated the contents of the plaint and substantiated his ownership and possession over the suit property. For the sake of brevity, the entire contents of the affidavit are not reproduced herein. In support of his case, the plaintiff proved on record the following documents:

- i) Ex. P-1 to Ex. P-7, including the affidavit, documents of title/affidavit of purchase, copy of the passbook, copy of demand draft, and other related papers;
- ii) Ex. P-8 to Ex. P-214, comprising bills and receipts relating to construction and renovation; and
- iii) Affidavits Ex. P-223 and Ex. P-224, establishing his possession and ownership claim.

The plaintiff also examined PW-2, Sanjay Gupta, who tendered into evidence his duly sworn affidavit Ex. PW-2/A, corroborating the plaintiff's version. Thereafter, the learned counsel for the plaintiff closed the evidence.



11. On the other hand, to prove the defence and counter-claim, defendant No.1 / counter-claimant Sandeep Kumar entered into the witness box as DW-1 and tendered into evidence his duly sworn affidavit Ex. DW-1/A, wherein he reaffirmed the entire case set up in the written statement and counter-claim. For conciseness, the detailed contents of the affidavit have not been reproduced herein. In support of his case, the defendant produced and tendered into evidence the following documents: Ex. DW-x/1 to Ex. DW-x/14, which included the General Power of Attorney, Sub-General Power of Attorney, conversion and freehold documents, payment receipts, and other supporting papers. The defendant further examined the following witnesses:

- i) DW-2 Smt. Balwinder Kaur,
- ii) DW-3 Satish Kumar,
- iii) DW-4 Sanjay Vats,
- iv) DW-5 Neeraj Kumar,
- v) DW-6 Satish Kumar,
- vi) DW-7 Harjinder Singh, and
- vii) DW-8 Sanjeev Kumar.

Thereafter, the learned counsel for the defendant closed the evidence.

Findings of the trial Court

12. After hearing both sides, the learned trial Court observed that the counter-claimant's claim was two-fold—firstly as an owner and secondly as a Sub-GPA holder. It was, however, admitted that there existed no registered sale deed either in favour of the plaintiff or in favour of the counter-claimant. Upon perusal of the record, it was noticed that multiple litigations were pending between the parties regarding the same property. The Court noted that the main injunction suit

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had already been withdrawn, and therefore, no finding was required to be given regarding the ownership of the defendant in the counter-claim. It was held that the counter-claimant had produced various documents including Ex.DX-36, the Sub-General Power of Attorney in his favour, Ex.DX-33, the GPA in favour of Ashwani Sabharwal dated 21.03.1959, and Ex.DX-37, copy of order dated 27.08.1997 issued by the Chandigarh Administration. The Court found that the Sub-GPA (Ex.DX-36) authorized Sandeep Kumar to apply for occupation/completion certificates, to let out the property, to enter into lease deeds, recover rent, and to initiate legal proceedings to evict tenants or occupants. From this, it was concluded that the Sub-GPA conferred upon him sufficient right to manage and recover possession of the premises on behalf of the principal, though it did not vest ownership rights in him.

13. The Court further observed that under Section 54 of the Transfer of Property Act, a sale of immovable property can only be effected through a registered sale deed, and a power of attorney does not by itself transfer ownership.

14. The trial Court also noticed that the defendant had failed to produce any valid document proving ownership, having relied merely on photocopies of affidavits (Ex.P-178 and Ex.P-178/A) whose originals were not produced. The alleged construction claimed to have been carried out by the defendant also remained unproved. The cross-examination of the plaintiff's witness (PW-2 Sanjay Gupta) revealed that no document bore his name, nor was there any reference to payments having been made in the name of the defendant. Consequently, the defendant's plea of ownership and construction was found to be without evidentiary support. The Court further observed that there were multiple litigations and criminal proceedings pending between the parties, and the affidavit relied upon

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by the defendant for asserting ownership was itself under suspicion, with an FIR registered regarding its genuineness.

15. In contrast, the counter-claimant successfully proved that he was holding a valid Sub-GPA and that the plaintiff's occupation of the premises had continued even after termination of his license. The Court held that the defendant had served a valid notice terminating the plaintiff's license and was, therefore, entitled to recover possession of the ground floor of the house. However, the Court found that there was no evidence on record to substantiate the claim for damages at ₹40,000 per month, and based on the evidence regarding the prevalent rate of rent for similar accommodation, it assessed the damages at ₹25,000 per month from 15.04.2009 till the date of delivery of possession.

16. On Issue No.2, relating to the maintainability of the suit, it was held that the counter-claimant, being a Sub-GPA holder, had the right to institute the counter-claim, as the authority conferred upon him under clause 6 of Ex.DX-36 specifically empowered him to let out, recover rent, and initiate legal action for eviction. Accordingly, it was held that the counter-claim was maintainable.

17. In conclusion, the trial Court decreed the counter-claim filed by the defendant Sandeep Kumar, holding that he was entitled to possession of the ground floor of House No. 222, Sector 44-A, Chandigarh, from the plaintiff Puran Chand, along with damages at the rate of ₹25,000 per month from 15.04.2009 till actual restoration of possession, with costs.

Findings of the Lower Appellate Court

18. The learned first Appellate Court, after re-appreciating the pleadings, evidence, and findings of the trial Court, observed that the appellant Puran Chand had challenged the decree of the trial Court primarily on the grounds that the

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counter-claim filed by respondent no.1 Sandeep Kumar was not maintainable as it had been filed by him in his individual capacity and not as a sub-power of attorney holder. It was also contended that the trial Court had erred in relying upon the Sub-GPA, Ex.DX-36, to decree the counterclaim and that such reliance was misplaced as the said document did not confer ownership rights upon Sandeep Kumar. The appellant further argued that he had purchased the house in question from Gurdial Singh Dhillon in 1997 for valuable consideration and had taken possession of the same after full payment. He relied upon affidavits executed by Gurdial Singh Dhillon, which, according to him, established his ownership. It was also argued that the trial Court failed to consider the fact that the appellant had raised construction on the first and second floors of the property and that respondent no.1's claim of license was inconsistent and self-contradictory. The appellant asserted that he had been in possession since 1996 and had shifted his residence to the suit house well before the alleged creation of any license in 2009. It was, therefore, argued that the trial Court wrongly decreed the counterclaim based on the Sub-Power of Attorney, ignoring the appellant's ownership and possession.

19. The learned Appellate Court noted that the appellant had filed a suit for injunction, which he later withdrew, and that the respondent had set up a counter-claim under Order 8 Rule 6A CPC, which was duly contested. The Appellate Court recorded that the appellant had withdrawn his main suit but continued to contest the counterclaim and that the counterclaim was supported by valid Court-fee payment. It further noted that the appellant relied on documents like Ex.P-178 and P-178/A, which were only photocopies and not proved in accordance with law, and that the originals were not produced. The Court observed that these documents could not confer any title, particularly in view of the settled



law that ownership of immovable property can only be transferred by way of a registered conveyance deed. The contention of the appellant that he had purchased the property through indirect sale was rejected as the same was not supported by a registered document.

20. The Appellate Court also found that the Sub-GPA Ex.DX-36 was a valid and subsisting document executed in favour of Sandeep Kumar, giving him certain powers including to let out, recover rent, and take legal steps for eviction. However, the said document did not confer ownership. Nonetheless, by virtue of clause 6 of the Sub-GPA, Sandeep Kumar was authorized to take legal steps to recover possession and to deal with the property on behalf of the principal, thereby making his counterclaim maintainable.

21. It was further held that although the respondent/counter-claimant could not be declared the owner of the property, the appellant too had failed to prove his ownership or the capacity in which he continued to occupy the premises. He was neither a tenant nor an owner, and his possession was found to be without any legal right. The Appellate Court concluded that the appellant's plea of ownership based on unproved affidavits and photocopies could not be sustained. On the other hand, the respondent's right to manage and recover possession as a Sub-GPA holder was duly established.

22. Consequently, the learned Additional District Judge found no merit in the appeal and upheld the findings of the trial Court that the counter-claim based on Sub-GPA was maintainable though it did not confer ownership rights. It was further affirmed that the respondent had the authority to file and maintain the counterclaim and to seek possession of the house under clause 6 of the Sub-GPA.

In view of the overall appreciation of evidence and legal position, the Appellate



Court held that there was no ground to interfere with the well-reasoned judgment of the trial Court and accordingly dismissed the appeal on 09.05.2019, affirming the decree in favour of respondent Sandeep Kumar.

23. Aggrieved by the concurrent findings of the Courts below, Puran Chand plaintiff filed the present regular second appeal. It is pertinent to mention here that during the pendency of the present appeal plaintiff -Puran Chand died and his legal representatives maintained the present appeal.

24. Upon notice, respondents appeared and contested the appeal.

Submissions of learned counsel for the appellant

25. The learned counsel for the appellant, representing the legal representatives of deceased Puran Chand, assailed the concurrent findings of the Courts below as being perverse and contrary to law and evidence on record. It was argued that both the Trial Court and the Lower Appellate Court erred in decreeing the counterclaim of the respondent on the basis of Sub-General Power of Attorney Ex. D/36, despite holding that the said document did not confer any ownership rights. It was submitted that the respondent/counter claimant is admittedly not the owner of the suit property as there exists no registered sale deed in his favour, and that a power of attorney, whether general or sub-general, does not create or transfer any title. The counsel contended that the Courts below failed to appreciate that the question of possession and ownership was wrongly decided against the appellant without properly determining the capacity in which the appellant was occupying the premises. The appellant, being in long-standing possession of the suit property, had claimed ownership based on purchase from Gurdial Singh Dhillon, and in that regard had already filed a separate suit for declaration of ownership, which is pending adjudication before the Civil Judge (Junior Division), Chandigarh.



26. It was further argued that the onus to prove ownership of the property rested upon the respondent/counter claimant and not the appellant, as the respondent had come forward asserting the right to possession and damages under the alleged sub-GPA. The counsel pointed out that even as per the issue framed by the trial Court *“Whether the plaintiff is liable to hand over the vacant possession of the ground floor of House No. 222, Sector 44-A, Chandigarh, along with other persons brought by him, and also damages as set up in the counterclaim?”*, the burden squarely lay upon the respondent/counter-claimant to establish his ownership and entitlement. However, the respondent himself had filed a separate suit for specific performance against the original owner, Shri Om Parkash, seeking execution of a registered sale deed in his favour, which was subsequently dismissed by the learned Civil Judge (Junior Division), Chandigarh. The certified copy of the said judgment was produced on record by way of additional evidence. Thus, it was submitted that once the respondent’s suit for specific performance stood dismissed and no title had passed to him, his counterclaim based on the same alleged authority could not have been decreed.

27. The learned counsel further contended that the Courts below misconstrued the scope of the powers conferred under the Sub-General Power of Attorney Ex. D/36. It was emphasized that under the Power of Attorney Act, 1882, an agent derives his authority strictly from the principal and cannot exceed the powers delegated to him. The Sub-General Power of Attorney, when read with the preceding chain of documents, namely, Ex. D/33 executed by Om Parkash in favour of Ashwani Sabharwal and Tarsem Sabharwal, Ex. DW/32 (Special Power of Attorney) executed by Om Parkash in favour of B.K. Sabharwal, Ex. DX/34 and Ex. DX/35 executed and cancelled between Ashwani Sabharwal and Gurdial Singh



Dhillon, and finally Ex. DX/36 executed by Ashwani Sabharwal in favour of respondent Sandeep Kumar, makes it clear that the Sub-GPA did not authorize any sale or confer title. The said authority was limited only to obtaining occupation/completion certificates, letting out the premises, entering into rent or lease agreements, recovering rent, and issuing receipts or legal notices. There was no power conferred to induct a person into the property as a licensee or to transfer any ownership rights. The lower appellate Court, however, extended the language of the sub-GPA beyond its terms, which was impermissible and contrary to settled law.

28. It was submitted that the respondent had failed to prove how he had inducted the appellant into the property as a licensee when he possessed no such authority. In fact, the appellant's possession was lawful as owner in pursuance of purchase from Gurdial Singh Dhillon, and till date, the legal heirs of the appellant, including his aged and handicapped wife, continue to be in possession of the suit property. It was argued that in law, only the owner of a property can act as a licensor, and since the respondent is not the owner, his claim that the appellant was a licensee is untenable. The counsel further referred to document Ex. P-1, being the application form for conversion of the leasehold site into freehold, wherein the name of Puran Chand son of Sadhu Ram, resident of House No. 222, Sector 44-A, Chandigarh, is recorded as the purchaser, establishing that even in official records, ownership stood reflected in his favour.

29. The learned counsel contended that both Courts below overlooked the crucial document Ex. DX/32, which had been duly executed by B.K. Sabharwal, who was expressly authorized to sell and transfer the lease rights of the property and the building to be constructed thereon. It was, therefore, submitted that the



concurrent findings of the Courts below were legally unsustainable as they were based on misreading and non-appreciation of the evidence on record, as well as on misinterpretation of the powers conferred under the sub-GPA. It was urged that both substantial questions of law, whether the respondent could claim possession or maintain a counterclaim in absence of title and whether the sub-GPA could confer powers beyond those delegated by the original owner, be answered in favour of the appellant.

30. In support of his arguments, the learned counsel for the appellant relied upon *Suraj Lamp and Industries Pvt. Ltd. v. State of Haryana and another 2011 (4) RCR (Civil) 669*, to emphasize that a power of attorney or sub-power of attorney does not convey ownership or confer title in immovable property, and that transfer of title can only be effected through a registered conveyance deed. On these submissions, the counsel prayed that the judgments and decrees of both Courts below be set aside and the counterclaim of the respondent be dismissed with costs.

Submissions of learned counsel for the respondents

31. The learned counsel for the respondent-counter claimant supported the concurrent findings of the Courts below and submitted that the judgments and decrees passed in favour of the respondent were well-reasoned and based on due appreciation of evidence and documents on record. It was contended that the respondent Sandeep Kumar, being the Sub-General Power of Attorney holder of the original owner Om Parkash, derived his authority through a valid and subsisting chain of documents, particularly Ex. DX/33 (General Power of Attorney in favour of Ashwani Sabharwal), Ex. DX/34 and Ex. DX/35 (subsequent transfer and cancellation), and Ex. DX/36 (Sub-General Power of Attorney executed in

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favour of respondent). It was urged that the Sub-GPA was executed with full authority to manage, let out, and recover rent from the property, and to take all necessary legal steps including institution of proceedings for eviction and possession of the premises. It was submitted that the said document had never been revoked or cancelled, and therefore, remained operative in favour of the respondent, thereby giving him locus standi to maintain the counter claim.

32. It was further argued that the appellant was occupying the ground floor of the property as a mere licensee under the authority of the respondent and had no ownership or tenancy rights therein. His possession being permissive, he was bound to vacate the premises once the license was terminated. The respondent rightly filed the counter claim seeking possession and mesne profits at the rate of Rs.25,000/- per month w.e.f. 15.04.2009 till actual delivery of possession. The Trial Court and the Appellate Court, after appreciating oral and documentary evidence, decreed the counter claim, and the mesne profits were computed and partly received through Court, with the total amount due up to 14.10.2025 being Rs.49.50 lakhs, out of which Rs.5.58 lakhs had already been received, leaving a balance of Rs.43.92 lakhs as payable to the decree-holder.

33. The counsel contended that both Courts had rightly held that though the Sub-GPA did not create ownership, it validly empowered the respondent to institute proceedings for possession and eviction of any person unlawfully occupying the premises. The respondent's right to maintain the counter claim flowed directly from clause 6 of Ex. DX/36, which authorized the Sub-GPA holder to let out the premises, issue rent receipts, recover rent, eject tenants or occupants through legal process, and replace them with others. The appellant's claim of ownership was without basis as he had failed to produce any sale deed or



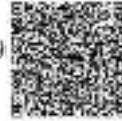
registered document of title, and his alleged purchase from Gurdial Singh Dhillon was not proved. It was also highlighted that the appellant's own suit for permanent injunction had been withdrawn, and therefore, he could not challenge the counter claim.

34. The counsel relied upon the judgments in *Hari Dass v. Sagar Chand (2017(2) RCR (Civil) 80* and *Sunder Lal v. Sita Bali (2003(3) RCR (Civil) 243*, to contend that the relationship between a licensor and licensee is purely personal and non-transferable, and that the right of a licensee ceases upon the death of the licensor. It was argued that since Puran Chand, the original appellant, had died during the pendency of the appeal, the license automatically stood terminated and could not be inherited by his legal heirs. Reliance was also placed on *Chinnan v. Ranjithammal, AIR 1931 Madras 216*, reiterating that a license is only a personal right and does not create any interest in the property.

35. It was therefore submitted that the lower Courts had rightly decreed the counter claim of the respondent on the basis of the valid Sub-GPA and the termination of license. The claim of ownership set up by the appellant was illusory, unsubstantiated, and stood contradicted by his own documents and conduct. The appellant's continued possession was unauthorized after termination of the license, entitling the respondent to both possession and mesne profits. The learned counsel prayed for dismissal of the appeal.

Findings of this Court

36. I have considered the submissions advanced by learned counsel for the appellant and for the respondent, the record of the trial Court and the Lower Appellate Court, the evidence on record and the documents exhibited therein.



37. The contention of learned counsel for the appellant that the Courts below erred in giving relief to the counter-claimant on the basis of a Sub-General Power of Attorney (Ex.DX-36) because, he says, a Power of Attorney cannot convey title and therefore the counter-claimant had no locus to seek possession or damages considered. It is settled law that a power of attorney, be it general or sub-power, cannot itself operate as a registered conveyance of immovable property so as to vest absolute title in the attorney. The transfer of immovable property is effected by a registered deed. That principle does not, however, answer the narrower question which the counter-claim raised and which the Courts below examined, namely, whether on the basis of the chain of instruments and the specific powers contained in Ex.DX-36 the counter-claimant had sufficient authority to manage the property, to let it out, recover rents, and to institute proceedings for eviction of persons wrongfully occupying the premises. The trial Court and the Appellate Court carefully read clause 6 of Ex.DX-36 and found that while it did not purport to create title, it did expressly empower the Sub-GPA holder to initiate legal proceedings for recovery of possession and rent. On the record before this Court, the Courts below were justified in distinguishing the abstract principle that a power of attorney does not confer title from the narrower rule that a person clothed with authority under a valid power may, in the exercise of those specific powers, maintain proceedings to recover possession and mesne profits on behalf of the principal. This Court concurs with that approach because it respects both the settled principle regarding transfer of title and the agency law principle that an agent may enforce the specific powers delegated to him on behalf of the principal. The relief granted in the counter-claim was for possession and mesne profits and not for declaration of title in the Sub-GPA holder's favour.



38. The appellant further argued that even on the agency point the Sub-GPA relied upon by the respondent was vitiated and could not be acted upon because the chain of title and the antecedent instruments show cancellation and inconsistent transactions, and because material original documents were not produced.

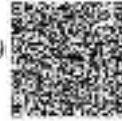
39. It is true that the existence of an unbroken chain of authority and the validity of antecedent instruments are fact-sensitive inquiries, the Courts below examined Ex.DX-33, Ex.DX-34, Ex.DX-35 and the attendant evidence and reached concurrent findings that the Sub-GPA in favour of Sandeep Kumar was subsisting and had not been effectively revoked prior to his institution of the counter-claim. The argument that cancellation of some antecedent Sub-GPAs rendered Ex.DX-36 a nullity is answered by the fact that cancellation of a Sub-GPA does not *ipso facto* annul Sub-GPA executed subsequently by the competent GPA-holding authority unless there is specific proof that the later instrument was itself revoked. The burden to prove revocation or invalidity of Ex.DX-36 rested upon the appellant who asserted the contrary. On a careful reading of the record this Court finds that the appellant failed to lead positive and convincing evidence to show that Ex.DX-36 had been rescinded or that the person executing it lacked capacity. The mere pendency of other suits and the existence of litigation about the ultimate title between different parties does not, without more, destroy the efficacy of a power of attorney which on its face empowers the attorney to institute eviction proceedings and to recover rents. The Courts below therefore rightly held that the Sub-GPA had, for the purposes of the counter-claim, sufficient operative effect.

40. The contention of learned counsel for the appellant that the appellant had paid the full consideration and had become owner by purchase from one



Gurdial Singh Dhillon in 1997 and that he had constructed the first and second floors at his own cost, therefore his possession was that of an owner and could not be treated as permissive is devoid of any force. The appellant relies on affidavits and indirect sale documents to support his ownership claim. That contention runs into significant evidentiary difficulties on this record. Under Section 54 of the Transfer of Property Act a sale of immovable property must be effected by a registered instrument, the mere existence of affidavits, unregistered or indirect documents and photocopies is insufficient to create title. The Courts below placed emphasis on the failure of the appellant to produce the original documents for example Ex. P-178 and Ex.P-178/A and on the fact that the alleged vendor's affidavit and indirect documents were not executed in the form required by law to transfer immovable property. In addition, the appellant himself withdrew his main suit for permanent injunction during the trial, which demonstrates that he could not or did not wish to press an independent, affirmative claim to ownership at that stage. He continued only to contest the counter-claim. Withdrawal of the main suit is a relevant circumstance because it shows that the appellant had not established his clear and legal right over the suit property. This Court finds no legal error in the conclusion that the appellant's evidence fell short of proving title. The appellate Court's re-appreciation of the documentary evidence is sustainable and not vitiated by perversity.

41. It was further argued on behalf of the appellant that the lower Courts wrongly placed the burden of proof upon him and relieved the respondent of proving owner-ship or the right to possession. A careful reading of the trial and appellate judgments shows that the Courts below correctly stated and applied the rule on burden. When a party asserts a right to possession based on a power of



attorney he must establish the particular authority which enables him to claim possession, once the respondent produced Ex.DX-36 and relied upon clause 6 to show that he was empowered to recover possession and rents, the burden shifted to the appellant to show that the Sub-GPA was not operative or that the appellant's possession was supported by valid title. The appellant's failure to produce original title documents, his withdrawal of the main suit and the absence of concrete evidence of payment and registered conveyance meant that he did not meet that burden. In other words, the Courts below did not invert the burden, they required each party to prove the facts that buttressed his asserted legal position. The respondent proved a subsisting Sub-GPA with eviction powers and the appellant failed to prove a registered transfer of title.

42. The appellant's counsel fiercely attacked the quantum of mesne profits and the assessment of damages at ₹25,000 per month, contending that no evidence supported that figure and that the trial Court erred in awarding mesne profits from 15.04.2009. The trial Court expressly found that the defendants had not proved the extravagant figure of ₹40,000 per month claimed in the counter-claim and that evidence on record supported a lower but reasonably assessed sum. Assessment of mesne profits is a fact-intensive exercise, the Courts below examined evidence of market rent for similar accommodation in the vicinity and applied principled exercise of judicial discretion to arrive at ₹25,000 per month. There is no mathematical or legal perversity in that approach, the award is justified by the contemporaneous evidence on rent in the locality and by the absence of any precise or reliable rent-agreement establishing the higher figure. The trial Court's computation from 15.04.2009, the date specified in the termination notice given to



the appellant, is consistent with the pleadings and the evidence about the termination of possession and is therefore sustainable.

43. The appellant further submitted that the relationship between the parties was that of owner and occupier and not of licensor-licensee, and that even if a licence existed it could not be terminated to the detriment of the appellant's heirs on the death of the original licensor. The law is clear that a licence is a personal and permissive right which does not create an interest in the land and ordinarily terminates with the death of the licensor unless there are circumstances showing an intention that the licence should survive. On the facts the trial and appellate Courts recorded that the appellant was allowed to occupy the ground floor as a licensee by the owners and their agents and that the license was terminated by notice dated 30.03.2009 with effect from 15.04.2009. The appellant's contention that he enjoyed ownership rights was rejected for the reasons stated earlier. The personal nature of a licence and its termination upon death of the licensor are legal principles that operate where indeed the licensor was the true owner, whereas here, the person asserting ownership itself failed to produce registered title, the contention that the licence survived as a proprietary right is without substance. In any event, the Courts below have considered the question of survival of licence upon death and have correctly applied the legal test to the material facts before them. There is no reason for this Court to substitute its view.

44. Learned counsel for the appellant also raised specific objections to the admissibility and probative value of certain documents, in particular photocopies of affidavits and receipts exhibited on behalf of the appellant and relied upon allegations of forgery and fabrication. The trial Court and the Lower Appellate Court examined those allegations. It is axiomatic that allegations of forgery require



robust proof and, normally, the production of originals or appropriate secondary evidence. The appellant's failure to produce the originals of Ex.P-178/P-178A and other crucial documents substantially weakened his case. The Courts below were entitled to attach little weight to mere photocopies in the absence of satisfactory explanation for non-production. Further, where the record contains instances of conflicting litigations and criminal complaints, the Court must sift the evidence and accept what is proved on preponderance. On this record, both the Courts below applied that approach and accepted the respondent's documentary evidence insofar as it was sufficient to show a subsisting power to recover possession. The appellant's evidentiary shortcomings justified the rejection of his contrary narrative.

45. The appellant advanced a further legal proposition that even if the Sub-GPA conferred eviction powers, the Sub-GPA holder could not recover possession from a person who had obtained ownership by adverse possession or by a sale with registered deed, in short, that a *lis* between strangers as to title could not be resolved by a counter-claim in the manner permitted. That submission overlooks the procedural posture i.e. the appellant had instituted and later withdrawn his main injunctive suit. What was before the trial Court was a counter-claim by an authorised agent to recover possession from a person in unauthorised occupation. The remedy sought and granted was possessory in nature and did not adjudicate upon conclusively who the absolute owner was for all purposes. Where, as here, possession is permissive and the agent holds specific authority to eject, the counter-claim for possession is maintainable even though the ultimate question of title may be the subject matter of a separate proceeding. The Courts below



correctly confined their decree to possession and mesne profits and did not purport to decide title forever; that restraint is sound and conforms to settled procedure.

46. The contention that there is some fundamental illegality because concurrent findings are contradictory i.e., that the Courts below both held that Ex.DX-36 did not convey title but nevertheless allowed possession, is, in view of this Court, a misreading of the judgments. The Courts distinguished ownership from authority to manage. A power of attorney may not create title yet it can validly empower the attorney to manage the property and to evict unauthorised occupiers. This distinction is at the heart of the concurrent findings and is legally correct. The Courts below meticulously explained that the Sub-GPA did not make the respondent the owner but it gave him authority to recover possession on behalf of the principal, that is a legally coherent stance and not a contradiction.

47. I have also carefully considered the judgments cited by learned counsel for the appellant, namely *Smt. Kasthuri Radhakrishnan & Ors. v. M. Chinnian & Anr., 2016 AIR (SCW) 609*, and *Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana & Another, 2011(4) RCR (Civil) 669*. There can be no quarrel with the proposition of law laid down in those authorities that ownership of immovable property cannot be transferred or conveyed through an agreement to sell, a will, or a power of attorney, and that only a duly registered sale deed under Section 54 of the Transfer of Property Act can create or convey title. However, the reliance placed on those authorities by the appellant is misplaced in the context of the present case. The impugned decrees of the Courts below have not conferred ownership upon the respondent-counter claimant, rather, both Courts have categorically held that the Sub-General Power of Attorney (Ex.DX-36) did not and could not transfer ownership. The relief granted to the respondent was not

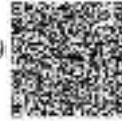


declaration of ownership but recovery of possession and mesne profits in the capacity of a duly authorized Sub-GPA holder empowered under clause 6 to manage the property and initiate eviction proceedings on behalf of the principal. Hence, the principle in *Suraj Lamp (supra)* and *Kasthuri Radhakrishnan (supra)* decisions does not advance the appellant's case. It, if anything, reinforces the reasoning of the Courts below that title could not pass through GPA but that valid authority under the GPA could sustain the counter-claim.

48. On the other hand, the judgments cited by learned counsel for the respondent *Hari Dass v. Sagar Chand, 2017(2) RCR (Civil) 80, Sunder Lal v. Sita Bali, 2003(3) RCR (Civil) 243 and Chinnan v. Ranjithammal, AIR 1931 Mad 216*, were aptly relied upon by the Courts below. These authorities uniformly hold that a license is a mere personal permission, does not create any right or interest in property, and terminates on revocation or on the death of the licensor. The application of these authorities to the present facts is direct and justified, since the appellant was found to be in permissive possession and the license had been terminated by notice dated 30.03.2009. The ratio of these cases, therefore, squarely supports the concurrent findings of the Courts below.

Conclusion

49. In the result, for the reasons recorded above, this Court finds no merit in the Regular Second Appeal. The concurrent judgments and decrees dated 03.07.2015 and 09.05.2019 passed by the learned trial Court and learned lower appellate Court, respectively, are affirmed. The decree in favour of respondent No.1 for possession of the ground floor of House No. 222, Sector 44-A, Chandigarh, together with mesne profits at the rate of ₹25,000 per month from 15.04.2009 till actual delivery of possession, as computed by the trial Court and

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reduced/confirmed by the Appellate Court, shall stand. The balance amount (as recorded in the appeal papers up to 14.10.2025) shall be paid in accordance with law subject to the usual adjustments for amounts already realized. The appellant shall pay costs of this appeal to the respondent, parties shall bear their respective costs below.

50. Pending application(s), if any, also stands disposed of.

November 04, 2025
tripti

(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No