

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28th DAY OF APRIL 2026

BEFORE

THE HON'BLE MR. JUSTICE H. T. NARENDRA PRASAD

WRIT PETITION NO. 26714 OF 2025 (GM-CPC)

BETWEEN:

SHRI. JIJESH V.
S/O VIJAYAN
AGED ABOUT 48 YEARS
R/T NO.634, 11TH MAIN
H.A.L 2ND STAGE
BENGALURU-560 008.

... PETITIONER

(BY SRI. P. N MANMOHAN, ADVOCATE FOR
SRI VINAY N, ADVOCATE)

AND

LATE SMT, REVATI NARAYANAN
SINCE DEAD BY HER LRS.

1. MAJ. GEN. K NARAYANAN
S/O LATE V S KRISHNAN
AGED ABOUT 58 YERS
R/AT C1/10, HUMAYUN ROAD
NEAR KHAN MARKET METRO STATION
NEW DELHI-110003.

2. MS. ROHINI NARYANAN
D/O MAJ. GEN. K. NARAYANAN
AGED ABOUT 22 YEARS
R/AT C1/10, HUMAYUN ROAD
NEAR KHAN MARKET METRO STATION
NEW DELHI-110003.

... RESPONDENTS

(BY SRI.AJAY J NANDALIKE, ADVOCATE FOR
SRI. HARISH JAYKUMAR, ADVOCATE FOR R1 & R2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 18.08.2025 PASSED ON I.A. NO. 2, 16, 17, 18 (PRODUCED AT 'ANNEXURE - R') PASSED BY THE COURT OF LXXXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, COMMERCIAL COURT, BENGALURU (CCH-84) IN COM.O.S.NO. 1575/2022 AND ETC.

THIS WRIT PETITION, HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 22.04.2026, COMING ON FOR PRONOUNCEMENT, THIS DAY, THE COURT, MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

CAV ORDER

This writ petition is filed by the defendant under Article 227 of the Constitution of India, calling in question the order dated 18.08.2025 passed on I.A. Nos. 2, 16, 17, and 18 in Com. O.S. No. 1575/2022 on the file of the LXXXIII Additional City Civil and Sessions Judge, Commercial Court, Bengaluru (for short, 'Commercial Court').

2. By the said impugned order, I.A. No. 2 filed by the plaintiff under Section 151 of Code of Civil Procedure (for short, 'CPC') seeking a direction to the defendant to deposit the rental income arising out of the suit schedule property, and I.A. Nos. 16 to 18 filed by the legal representatives of the original plaintiff to recall PW-1 for further cross-examination and for production of additional document, i.e., original GPA, came to be allowed.

3. For the sake of convenience, the parties are referred to as per their ranking before the Commercial Court.

Facts of the Case:

4. The brief facts of the case are as follows:

The suit was originally instituted by one Mrs. Revathi Narayanan (since deceased) against the defendant for ejectment, future damages, and costs.

Upon service of summons, the defendant entered appearance through counsel and filed a written statement. Based on the pleadings, the Commercial Court framed issues.

5. During the pendency of the proceedings, the plaintiff filed I.A. No. 2, seeking a direction to the defendant to deposit the admitted rent during the pendency of the suit.

6. Subsequently, after completion of the plaintiff's evidence, the plaintiff filed:

- I.A. No. 16 under Order XVIII Rule 17 read with Section 151 CPC to recall PW-1 for further chief-examination;
- I.A. No. 17 under Section 151 CPC to reopen the stage of further chief-examination of PW-1; and
- I.A. No. 18 under Order XI Rules 4 and 5 read with Section 151 CPC for production of the

original General Power of Attorney (GPA) dated 09.04.2022.

7. The defendant filed detailed objections to IA No.2, common objections to IA Nos. 16 & 17 and separate objections to IA No.18.

8. All the aforesaid applications were allowed by the impugned order dated 18.08.2025. Being aggrieved, the defendant has approached this Court.

Submissions on Behalf of the Petitioner/Defendant:

9. Learned counsel for the petitioner raised the following contentions:

(i) Firstly, the suit is not maintainable as the plaintiff is a third party and not the lessor of the defendant. When the suit itself is not maintainable, the applications filed by the plaintiff cannot be entertained.

(ii) Secondly, the GPA dated 09.04.2022 cannot be permitted to be produced at a belated stage. It is inadmissible in evidence as it is inadequately stamped, unregistered, executed on plain paper, and not even notarized. Hence, the Commercial Court ought to have rejected the application i.e., I.A. No. 18.

(iii) Thirdly, the suit being one for ejectment, after termination of tenancy, an application seeking payment of rent is not maintainable. The Commercial Court erred in allowing I.A. No. 2 without considering this aspect.

(iv) Fourthly, relief in a civil suit must be confined to the pleadings. Factors such as court fee, limitation, res judicata, estoppel, and non-joinder of parties or causes of action must be pleaded and proved. Without such compliance, the applications could not have been allowed. In support of this

contention, reliance is placed on the decision of the Supreme Court in ***BACHHAJ NAHAR VS. NILIMA MANDAL AND ANOTHER***, reported in **(2008) 17 SCC 491**. Hence, he sought to allow the writ petition.

Submissions on Behalf of the Respondents/Plaintiffs:

10. Per contra, learned counsel for the respondents contended as follows:

(i) Firstly, a General Power of Attorney does not create, transfer, or extinguish any right in an immovable property in presenti and does not involve any payment of consideration. Hence, it does not require compulsory registration. Reliance is placed on ***SURAJ LAMP & INDUSTRIES (P) LTD. VS. STATE OF HARYANA***, reported in **(2012) 1 SCC 656**.

(ii) Secondly, with regard to the payment of stamp duty, the legal representatives of the plaintiff are ready to pay the requisite duty along with penalty,

as may be determined by this Court, in the light of the judgment of the Apex Court in the case of ***SEETHARAMA SHETTY VS. MONAPPA SHETTY***, reported in **2024 SCC Online SC 2320**.

(iii) Thirdly, though rent was not claimed prior to filing the suit, during the pendency of the suit, the admitted rent is liable to be payable by the defendant. The relief sought is covered under Section 41 of the Karnataka Court Fees and Suits Valuation Act, 1958. In support of his contentions, reliance is placed on the following judgments of this Court:

- CRP No. 236/2011 (disposed of on 19.11.2011),
- W.P. No. 5639/2023 (disposed of on 11.07.2023), and
- ILR 1978 Kar 782 (*M/s. Bangalore Builders (P) Ltd. vs. P.P. Anthony and Others*).

(iv) Fourthly, even if court fee is found to be deficient, the legal representatives of plaintiff are ready to pay the same. On the said ground alone, the suit cannot be dismissed. Hence, he sought dismissal of the writ petition.

Consideration by the Court:

11. Heard the learned counsel for the parties and perused the materials on record.

12. The case of the original plaintiff is that her mother, Mrs. Tara Chandrasekar, was the absolute owner of the suit schedule property and had leased the same to the defendant under a lease agreement dated 01.04.2017.

13. Subsequently, Mrs. Tara Chandrasekar gifted the property to the plaintiff under a registered gift deed dated 01.04.2021. Thereafter, the defendant allegedly defaulted in payment of rent, compelling the

plaintiff to terminate the tenancy by issuing a notice dated 30.04.2022.

14. The original plaintiff executed a General Power of Attorney in favour of Mrs. Gayathri Chandrasekar, who signed and verified the plaint. During the pendency of the suit, the original plaintiff died and her legal representatives were brought on record.

15. The defendant, while admitting tenancy under the original owner, disputes the plaintiff's ownership and her right to institute the suit.

16. In this background, the legal representatives of original plaintiff filed an application to produce the original GPA executed in favour of the attorney holder.

17. With regard to the requirement of registration of the GPA, it is evident that the document is executed for two purposes:

1. To authorize the attorney holder to represent the plaintiff in the suit; and
2. To authorize the attorney holder to alienate the suit schedule property.

Even if the GPA contains a clause authorizing alienation, it does not create, transfer, or extinguish any right in presenti in an immovable property in favour of the GPA holder. Therefore, such a document does not require compulsory registration.

18. The Commercial Court, after considering this aspect and relying upon the judgments of the Supreme Court, has rightly held that the GPA is not a compulsorily registerable document. The relevant paragraphs of the Commercial Court's order are extracted below:

"24. Firstly, regarding registration, perusal of the GPA discloses that essentially it is executed for two purposes. Firstly, to authorize the attorney holder to represent the plaintiff in the suit and secondly,

authorizing the attorney holder to alienate suit schedule property. It is precisely because the GPA authorizes alienation of immovable property that counsel for defendant contends that it requires compulsory registration. The law is very well settled that a GPA by itself neither creates nor relinquishes nor transfers any right in presenti in immovable property and therefore a GPA, although it may be for authorizing the attorney holder to alienate immovable property, does not require compulsory registration. In this regard, reference may be made to the law laid down by Hon'ble Apex Court in the case of Suraj Lamp & Industries (P) Ltd. (2) v. State of Haryana, (2012) 1 SCC 656: (2012) 1 SCC (Civ) 351: (2012) 340 ITR 1: 2011 SCC OnLine SC 1360 at page 661, as follows;

"20. A power of attorney is not an instrument of transfer in regard to any right, title or interest in an immovable property. The power of attorney is creation of an agency whereby the grantor authorises the grantee to do the acts specified therein, on behalf of grantor, which when executed will be binding on the grantor as if done by him (see Section 1-A and Section 2 of the Powers of Attorney Act, 1882). It is revocable or terminable at any time unless it is made irrevocable in a manner known to law. Even an irrevocable attorney does not have the effect of transferring title to the grantee."

25. It is only where the principal actually executes or signs the document but is unable to present the document for registration and the principal executes the GPA authorizing the agent to present for registration the document which is signed by the principal that Section 32 (c) and Section 33 of the Registration Act require compulsory registration of such a GPA.

In this regard, reference may be made to the law laid down by the Hon'ble Apex Court in the case of Rajni Tandon v. Dulal Ranjan Ghosh Dastidar, (2009) 14 SCC 782: (2009) 5 SCC (Civ) 520: 2009 SCC OnLine SC 1388 at page 786, as follows;

"10. The trial court recorded a finding that the power of attorney under which the sale/conveyance deed was executed was not registered and the same ought to have been registered as Mr Indra Kumar Halani executed the said sale deed on behalf of Nandlal Tantia as his constituted attorney and presented the same for registration. Hence, it was held to be in violation of the provisions of Sections 32 and 33 of the Act. Consequently, it was also held that the title in the said premises had not passed in favour of the appellant. The trial court accordingly dismissed the suit as the appellant-plaintiff did not acquire any right, title and interest by virtue of her purchase by the said deed of conveyance dated 28-2-1990.

.....

33. Where a deed is executed by an agent for a principal and the same agent signs, appears and presents the deed or admits execution before the registering officer, that is not a case of presentation under Section 32(c) of the Act. As mentioned earlier the provisions of Section 33 will come into play only in cases where presentation is in terms of Section 32(c) of the Act. In other words, only in cases where the person(s) signing the document cannot present the document before the registering officer and gives a power of attorney to another to present the document that the provisions of Section 33 get attracted. It is only in such a case, that the said power of attorney has to be necessarily executed and authenticated in the manner provided under Section 33(1) (a) of the Act.

34. In the instant case, Indra Kumar Halani executed the document on behalf of Shri N.L. Tantia under the terms of this power of attorney. He then presented it for registration

at the registration office and it was registered. The plea taken by the respondents that in order to enable him to present the document it was necessary that he should hold a power of attorney authenticated before the Sub-Registrar under the provisions of Section 33 is thus not supported by the language of Section 32. The provisions of Section 33 therefore only apply where the person presenting a document is the general attorney of the person executing it, and not where it is presented for registration by the actual executant, even though he may have executed it as agent for someone else. In this case, the presentation is by the actual executant himself and is hence entitled under Section 32(a) to present it for registration and to get it registered."

26. In fact, counsel for defendant has himself relied upon Rajini Tandon case supra, but the said ruling in fact goes against the contention of the defendant that the GPA in question requires compulsory registration, because, the GPA in question authorizes the attorney holder to both execute as well as present for registration the conveyance deed, and this is not a case where the GPA is only for presenting the conveyance deed for registration which is signed by the principal.

27. In this regard, counsel for defendant has also relied upon Yellappu Uma Maheshwari VS. Buddha Jagadheeswara Rao, reported in (2015) 16 SCC 787, holding that an unregistered and unstamped partition deed is not admissible in evidence because a document affecting relinquishment of right in immovable property requires compulsory registration. The said ruling is inapplicable to the GPA in question because, as already noted, Hon'ble Apex Court has held in Suraj Lamps case

supra that a GPA does not result in transfer of interest in immovable property but is only creation of an agency.

28. *It is only by the Registration (Karnataka Amendment) Bill 2025 that Section 17 is sought to be amended to make, power of attorney authorizing transfer of immovable property with or without consideration, compulsorily registrable. But the GPA in question was executed long before introduction of Amendment Bill 2025, and therefore, the said GPA is not a compulsorily registrable document."*

19. The plaintiff seeks to rely upon the General Power of Attorney (GPA) only for a collateral purpose. The GPA in question is executed for the two distinct purposes as stated above.

20. In the present proceedings, the GPA is produced only for the limited collateral purpose of authorizing the attorney holder to present and prosecute the plaint. On this ground as well, the contention of the defendant that the GPA requires compulsory registration cannot be accepted.

21. Insofar as the contention that an unstamped or insufficiently stamped document cannot be admitted in evidence, even for collateral purposes, is concerned, it is well settled that non-payment or deficit payment of stamp duty is a curable defect. The Court is empowered to impound such a document and either:

- refer it to the jurisdictional District Registrar for collection of proper stamp duty along with penalty; or
- itself determine and collect the requisite stamp duty and penalty.

This position is affirmed by the Apex Court in ***SEETHARAMA SHETTY (supra)***.

22. In the present case, the learned counsel for the plaintiffs has submitted that the plaintiffs are ready to pay the requisite stamp duty along with

penalty. Accordingly, the Commercial Court is directed to determine the proper stamp duty and penalty payable on the GPA and collect the same from the plaintiffs.

23. In view of the above, the Commercial Court is justified in allowing I.A. Nos. 16 to 18.

24. Insofar as I.A. No. 2 is concerned, the relief sought therein is for a direction to the defendant to deposit/remit the rental income arising out of the suit schedule property during the pendency of the suit. The prayer in the said application reads as follows:

"That for the reasons stated in the accompanying affidavit, the Plaintiffs herein humbly prays that this Hon'ble court be pleased to direct the Defendant to remit the of rentals arising out of the suit schedule property, before this Hon'ble court during the pendency of the captioned case, in the interest of justice and equity."

25. Therefore, the contention of the petitioner that the plaintiff is seeking arrears of rent is not correct. In the plaint, the relief sought by the plaintiff is for ejectment and future damages. The prayer sought in the plaint is extracted below:

"a) That the Suit be decreed in favour of the Plaintiff and against the Defendant and accordingly the Defendant be ordered to forthwith remove himself and his belongings from the House No. bearing No. 1099 12th main, 5th Cross measuring about 1800 sq. ft, bearing, BBMP PID No. 72-1-1099, situated in H.A.L. II Stage Bangalore - 560038 and deliver to the Plaintiff quiet and vacant possession of the Suit Premises.

b) That Plaintiff be allowed for future damages and cost of the suit; and

c) To grant any other relief, which the Hon'ble court deems fit and proper in the circumstance of the case, to the plaintiff in the interest of justice and equity."

26. On a perusal of the prayers sought in the plaint as well as the I.A., it is clear that Section 41 of the Karnataka Court Fees and Suits Valuation Act, 1958, is applicable to the case in hand. In similar circumstances, this Court has considered the question as to whether the court fee is payable in a suit filed for ejectment. The relevant paragraphs in CRP No. 236/2011 are extracted below:

"14. The question, therefore, is: Whether in a suit for ejectment, landlord is required to pay court fee on the amount of rent, or on the amount of damages he claims after termination of tenancy?"

15. This issue shall not hold us for long because the language of Section 41 of the Act is very clear. reads thus:

"41. Suits between landlord and tenant: (1) In the following suits between landlord and tenant in civil courts, namely: a) for the delivery by a tenant of the counterpart of a lease or for acceptance of patta in exchange of muchalika;

(b) for enhancement of rent;

(c) for the delivery by a landlord of a lease or for obtaining a patta in exchange for a muchalika;

(d) for recovering occupancy of immovable property from which a tenant has been illegally ejected by the landlord:

(e) for establishing or disproving a right of occupancy;

fee shall be levied on the amount of rent for the immovable property to which the suit relates, payable for the year next before the date of presenting the plaint.

(2) In a suit for recovery of immovable property from a tenant including a tenant holding over after the termination of a tenancy, fee shall be computed on the premium, if any, and on the rent payable for the year next before the date of presenting the plaint.

Explanation: Rent includes also damages for use and occupation payable by a tenant holding over."

Therefore, sub-section (2) clarifies that if there is any premium paid by the tenant, while quantifying the amount on which court fee is payable, it shall be one of the components. For example, if there is refundable deposit Rs. 10,000/- paid by the tenant, then after

calculating 12 and the amount so arrived will be the subject for paying months rent, it has to be added as one of the component. The Explanation to the provision no doubt court fee. clarifies that 'rent' includes damages. important is the relief sought. But what is important is the relief sought.

16. If the landlord were to seek damages from the tenant from the date of termination of tenancy, then undoubtedly the amount he claims would be the component on which court fee would be payable. But in the plaint if the landlord does not seek to recover damages after termination of tenancy, then it is only rent which is agreed upon that becomes the basis for computing court fee In this view, valuation done by the plaintiff on Rs.27,500/- (according to the plaintiff, but disputed by the defendant) being 12 months rent had to be the basis for computing court fee, which he has done. Office has accepted that valuation and therefore contentions to the contrary are over-ruled.

27. This Court, in W.P. No. 5639/2023, while referring to the order of the trial court and following the decision in **BANGALORE BUILDERS (P) LTD. VS. P.P. ANTHONY**, reported in **ILR 1978 Kar 782**, has held that, in exercise of its inherent powers under

Section 151 of the Code of Civil Procedure, the Court is empowered to direct the defendant to pay the admitted rent during the pendency of the suit. The relevant paragraphs are extracted below:

"3.

".....

14. Further, the law is settled that, in a suit for ejectment between landlord and tenant, the court has inherent powers under section 151 of CPC to direct the tenant to deposit the admitted rate of rent during the pendency of the suit (vide law laid down by Hon'ble High Court of Karnataka in the case of Bangalore Builders (P) Ltd. v. P.P. Anthony, reported at ILR 1978 Kar 782)

15. Therefore, although the application is filed under order 15 rule 5 of CPC, which is inapplicable to the State of Karnataka, the court can grant the relief sought for by the plaintiff which is for deposit of admitted rate of rent during the pendency of the suit by exercising the inherent powers under section 151 of CPC.

16. The contention of the defendant that, without paying the court fee, the Plaintiff cannot seek for recovery of rent from the defendant is misplaced, because, insofar as the relief of ejectment is concerned the court fee is paid under section 41 of the Karnataka Court Fees And Suit Valuation Act and similarly, court fees is also paid on the amount of Rs.43,620/- which is the arrears of rent claimed in the suit. This court has already sought for clarification in the earlier orders dated 11/10/2022 in respect of the discrepancy between the property which is leased out under the registered lease deed dated 03/05/2017 and the suit schedule property because it is only in respect of the property leased out that the plaintiff can value the suit under section 41 of the act as a suit between landlord and tenant and in respect of the remaining suit schedule property, the suit has to be valued as regular suit for possession under section 29 of the act and in this regard, the plaintiff has sought for time to submit the clarifications and in any event, this is not the subject matter of the present application, but, the subject matter of the present application is only seeking deposit

of admitted rent in respect of the property leased out under the registered lease deed dated 03/05/2017. Insofar as the relief of damages at the rate of Rs.2000/- per day is concerned, under section 42 (1) of the act, in respect of mesne profits, fee shall be computed where the amount is stated approximately, on such amount and if the profits ascertained to be due to the plaintiff after the suit are in excess of the amount for which, the court fee is initially paid, the difference court fee shall be collected before the decree is drawn up. Therefore, even insofar as the damages/mesne profits is concerned, the plaintiff is given the liberty to initially pay court fee tentatively and thereafter, the balance court fee shall be collected at the time of decree. In the case on hand, no court fee is paid on the damages/mesne profits because, as on the date of the suit, the damages had not accrued since damages is being sought only from the date of the suit. Anyhow, if and when the damages are awarded, the plaintiff will be called upon to pay the court fee at the time of drawing of the decree and therefore, at

this stage, it cannot be said that, the court fee paid on the plaint is insufficient.

17. Since the direction to the defendant to pay the admitted rate of rent during the pendency of the suit is a direction made under section 151 of CPC, no court fee is payable thereon. Therefore, the contention of the defendant that, without paying the court fee, the plaintiff cannot seek a direction to the defendant to pay the arrears of rent cannot be accepted. Consequently, the rulings relied upon by the learned counsel for defendant referred to in the objection statement which are all on the question of court fee are inapplicable to the facts of the present case because, in the present case, the direction to the defendant to pay the admitted rate of rent is sought for by exercise of inherent powers of the court under section 151 of CPC.

18. As already noted supra, as per the law laid down by Hon'ble High Court of Karnataka in the case of Bangalore Builders (P) Ltd. v. P.P. Anthony, reported at ILR 1978 Kar 782, the court has inherent powers during the pendency of ejectment suit to direct the tenant

to pay to the landlord, the admitted rate of rent."

28. In view of the above, the Commercial Court is justified in allowing the applications filed by the plaintiffs. There is no error or illegality in the order passed by the Commercial Court warranting any interference by this Court under Article 227 of the Constitution of India. Hence, the writ petition is devoid of merit.

Accordingly, the writ petition stands dismissed.

**Sd/-
(H. T. NARENDRA PRASAD)
JUDGE**

Cm/-