IN THE HIGH COURT OF JHARKHAND AT RANCHI
C.M.P. No. 660 of 2025

Rishikeshwar Soni (Power of Attorney holder of Birendra Narayan Satyarthi, Defendant No. 1, son of Late Harinarayan Ram, resident of Imli Kothi, Khirgaon, Bara Bazar, Hazaribag, P.O. Bara Bazar & P.S. Sadar (Hazaribag), District Hazaribag, Jharkhand) aged about 48 years, son of Dwarika Lal Soni, resident of 33, Subhash Marg, Bara Bazar, Hazaribag, P.O. Bara Bazar & P.S. Sadar (Hazaribag), District Hazaribag, Jharkhand, PIN CODE-825301

.... Petitioner

Versus

1. Loknath Saw, son of Late Leela Saw,
2. Mahabir Saw, son of Late Leela Saw
3. Rameshwar Saw, son of Late Khiro Saw
4. Raghu Saw, son of Late Khiro Saw
5. Sanjay Saw, son of Late Khiro Saw

All are residents of Village Bakar Gali, Khirgaon, Bara Bazar, Hazaribag, P.O. Bara Bazar & P.S. Sadar (Hazaribag), District Hazaribag, Jharkhand

6. Jagat Jyoti Narayan, son of Late Harinarayan Ram, resident of Imli Kothi, Khirgaon, Bara Bazar, Hazaribag, P.O. Bara Bazar & P.S. Sadar (Hazaribag). District Hazaribag. Jharkhand … …. Opposite Parties

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Petitioner :Mr. Pratik Sen, Advocate
For the Opposite Parties :Mr. Awnish Shankar, Advocate
Mr. Atul Kumar Tiwari, Advocate

Order No. 04 / Dated : 28.11.2025.

1. The petitioner is the power of attorney holder executed on behalf of defendant no. 1 in Title Suit No. 75 of 2023 filed for declaration of title with respect to Schedule-B land and for declaration that the sale deed executed with respect to the said land be declared null and void.
2. Petitioner Rishikeshwar Soni appeared on behalf defendant no. 1 on the basis of a general power of attorney executed in his favour by defendant no. 1.
3. The plaintiffs raised a preliminary objection to the appearance of the petitioner in the suit on behalf of defendant no. 1 by filing a petition dated 06.06.2024 on the ground that the said power of attorney was not registered and, therefore, petitioner had no right to appear on behalf of defendant no. 1.
4. The learned Trial Court vide the impugned order dated 12.09.2024 held that since the power of attorney was not registered, therefore, the petitioner had no right to appear on behalf of defendant no. 1.

5. It is submitted by learned counsel for the petitioner that under Order III of CPC, a registered power of attorney is not required for appearing on behalf of a party in a case. Reliance is placed on **(2005) 12 SCC 77 State of Rajasthan & Ors. Vs. Basant Nahata** wherein it has been held that the execution of a deed of power of attorney is valid in law and subject to a provision of the Registration Act, the said power of attorney is not compulsorily registrable.

6. It is further argued that defendant no. 1 is a Non-Resident Indian and he is presently residing in USA and, therefore, it is physically not possible for him to pursue the suit on day-to-day basis and, therefore, the general power of attorney has been executed in favour of the petitioner.

7. It is argued by learned counsel for the opposite opposite parties-plaintiffs that in the event where the power of attorney creates a valuable interest in any property, then it is compulsorily registered in view of the ratio laid down by the Hon'ble Apex Court in Civil Appeal Nos. 3266-3267 of 2025 (**M.S. Ananthamuthy & Anr. Vs. J. Manjula etc.).** It is further submitted that this power of attorney was executed on 11.11.2020 much before institution of the present suit, and is not confined to just appear in this case.

8. Having heard learned counsel for both sides, the main point for consideration in the present case is whether a power of attorney for appearance on behalf of the party in a suit was required to be compulsorily registered under the provisions of the Registration Act. In **Basant Nahata** case (supra), the law is settled that the power of attorney in terms of Order III of CPC for appearance in a Court is not required to be registered. It is altogether a different matter where such a registered power of attorney is required for creating an interest in a property.

9. Under the circumstance, the impugned order is not sustainable and is, accordingly, set aside.

This Civil Miscellaneous Petition is allowed.

Pending I.A., if any, stands disposed of.

(Gautam Kumar Choudhary, J.)

Pawan/ -
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03.12.2025