

2025 LiveLaw (SC) 706

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SANJAY KUMAR; J., K.V. VISWANATHAN; J.**

July 15, 2025

CIVIL APPEAL NO(S) 9497-9501 OF 2025 (@ S.L.P.(C) Nos. 6685-6689 of 2023)

G. Kalawathi Bai (Died), per LRs. *versus* G. Shashikala (Died), per LRs., and others etc.

Registration Act, 1908 - Sections 32(a), 32(c) - Persons to present documents for registration - Section 33 - POA recognizable for purposes of section 32 - Section 34 - enquiry before registration by registering officer - Section 35 – Issue - Whether a person executing a document under a Power of Attorney (POA) is considered the “executant” under section 32(a), enabling direct presentation for registration.

Held - Court disagreed with finding given in *Rajni Tandon v. Dulal Ranjan Ghosh Dastidar and another* (2009) 14 SCC 782 that a power of attorney holder authorized to execute a document becomes the “executant” under section 32(a) of the Act - that POA holder executes and signs a document on behalf of the Principal and not in their own capacity and thus the principal remains the true ‘executant’ - POA holder acts as an ‘agent’ under section 32(c) of the Act, not as the “person executing” under section 32(a) - ‘person executing’ means a person actually executing the document and includes a principal who executes by means of an agent - Registering officers have a duty under section 34(3) to inquire whether the document was truly executed by purported persons, verify identities and confirm the agent’s authority - noted that allowing a notarized or unregistered POA to bypass these stringent checks treating the agent as the ‘executant’ would create an “incongruous situation” - POA holder does not lose his status as an agent of that principal and become ‘executant’ in his own right - such an agent would therefore, continue to be covered by section 32(c) of the Act and must necessarily satisfy the requirements of sections 32(c), 33, 34, 35 of the Act. Court referred matter to a larger bench. [Para 8-10, 12-15, 17]

For Petitioner(s): Mr. V. Giri, Sr. Adv. Mr. D. Abhinav Rao, AOR Mr. Nihaar Dharmadikari, Adv. Mr. Abhisek Das, Adv. Ms. Megha Shaw, Adv. Mr. Raghav Bherwani, Adv.

For Respondent(s): Mr. D.N. Goburdhun, Sr. Adv. Mr. Aakarsh Kamra, Adv. Mr. Rohan Kochhar, Adv. Ms. Gauri Goburdhun, Adv. Mr. Rajkumar Maurya, Adv. Mr. Sumit Teterrwal, AOR.

ORDER

1. Leave granted.
2. These appeals turn open the validity of the registered Irrevocable General Power of Attorney dated 15.10.1990 allegedly executed by Ranveer Singh and his wife, Gyanu Bai, in favour of G. Rajender Kumar, their tenant, and, in turn, the validity of the three registered sale deeds dated 16.11.1990, 18.07.1991 and 16.08.1991 respectively executed by G. Rajender Kumar, the power-of-attorney holder, in favour of his wife, G. Shashikala.
3. Ranveer Singh, in fact, denied the execution of this General Power of Attorney, by way of his written statement filed in the suit. In that context, the Trial Court framed an issue as to ‘whether Ranveer Singh had appointed G. Rajender as his General Power of Attorney and whether the sale deeds executed by G. Rajender in favour of G. Shashikala as a General Power of Attorney were valid’. Thereafter, pursuant to the revisionary order passed by the High Court, the very admissibility of the General Power of Attorney dated 15.10.1990 and the three sale deeds executed by the power-of-attorney holder was called in question before the Trial Court and four additional issues were framed. One of the

additional issues was whether the alleged General Power of Attorney dated 15.10.1990 was authenticated by the Registrar, as required under Sections 32, 33, 34 and 35 of the Registration Act, 1908 (hereinafter, 'the Act'). Another additional issue was as to whether the Registrar had recognized G. Rajender Kumar, the alleged power-of-attorney holder, at the time of execution of the three sale deeds, as required under Section 34(3)(c) of the Act read with Rule 53 of the Rules framed thereunder.

4. While so, during the course of arguments before us on authentication of a power of attorney and the duty cast upon the Registrar while registering a sale deed executed by a power-of-attorney holder, the earlier decision of this Court in **Rajni Tandon vs. Dulal Ranjan Ghosh Dastidar and another**¹ was cited. In fact, the High Court placed reliance upon the said decision in support of its conclusions. Perforce, we had to study the decision and its *ratio*. In that case, by way of a notarized power of attorney, the principal had authorized the agent named therein to transfer his property and execute necessary documents. Pursuant thereto, the power-of-attorney holder executed a sale deed and presented it for registration. This action was assailed on the ground that the power-of-attorney holder had to present an authenticated power-of-attorney before the Sub-Registrar to get the sale deed registered. A co-ordinate Bench heard the case and framed the issue falling for consideration as under:

'19. whether a person who executes a document under the terms of the power of attorney, is, insofar as the registration office is concerned, the actual executant of the document and is entitled under Section 32(a) to present it for registration and get it registered.'

5. The Bench noted that one of the categories of persons eligible to present a document for registration, in terms of Section 32 of the Act, is the 'person executing' the document. The Bench opined that the expression 'person executing', as used in Section 32(a) of the Act, signifies the person actually executing the document and includes a principal who executes by means of an agent. Elaborating further, the Bench held that where a person holds a power of attorney which authorizes him to execute a document as an agent for someone else and he executes such document under the terms of the power of attorney, he is, so far as the registration office is concerned, the actual executant of the document and is entitled under Section 32(a) to present it for registration and get it registered. The Bench further held that, in such a situation, the duty cast on the registering officer under Section 32 of the Act is only to satisfy himself that the document was executed by the person by whom it purports to have been signed and upon being so satisfied and upon being presented with the document to be registered, the registering officer has to proceed with its registration. The conclusion of the Bench, as summed up in paragraph 33 of the reported decision, reads as under:

"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 case 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 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."

¹ (2009) 14 SCC 782

6. In effect, the Bench held that, when a document is executed by an agent for a principal in terms of a power of attorney and the same agent signs, appears and presents the said document or admits its execution before the registering officer, it would not be a presentation falling under Section 32(c) of the Act and there would be no necessity for 'authentication' of the power of attorney, as required by Section 33(1)(a) of the Act.

7. At this stage, it would be apposite to note the statutory scheme obtaining under the Act. Part VI of the Act is titled 'Of presenting documents for registration' and comprises Sections 32 to 39. To the extent relevant, Sections 32, 33, 34 and 35 are extracted hereunder:

"32. Persons to present documents for registration. — Except in the cases mentioned in sections 31, 88 and 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration-office, —

- (a) by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order, or
- (b) by the representative or assign of such a person, or
- (c) by the agent of such a person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

33. Power-of-attorney recognizable for purposes of section 32. — (1) For the purposes of section 32, the following powers-of-attorney shall alone be recognized, namely: —

- (a) if the principal at the time of executing the power-of-attorney resides in any part of India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides;
- (b) if the principal at the time aforesaid resides in any part of India in which this Act is not in force, a power-of-attorney executed before and authenticated by any Magistrate;
- (c) if the principal at the time aforesaid does not reside in India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, Indian Consul or Vice-Consul, or representative of the Central Government:

Provided that

Explanation. --

(2) In the case of every such person the Registrar or Sub-Registrar or Magistrate, as the case may be, if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

(3) To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

(4) Any power-of-attorney mentioned in this section may be proved by the production of it without further proof when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

34. Enquiry before registration by registering officer.—(1) Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23, 24, 25 and 26:

Provided that,

(2)

(3) The registering officer shall thereupon—

- (a) enquire whether or not such document was executed by the persons by whom it purports to have been executed;

- (b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document; and
- (c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear. (4)
- (5)

35. Procedure on admission and denial of execution respectively. — (1)(a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the person they represent themselves to be, and if they all admit the execution of the document, or

(b) if in the case of any person appearing by a representative, assign or agent, such representative, assign or agent admits the execution, or

(c) if the person executing the document is dead, and his representative or assign appears before the registering officer and admits the execution, the registering officer shall register the document as directed in sections 58 to 61 inclusive.

(2) The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

(3) (a), or

(b), or

(c),

Provided that,

Provided further that"

8. Section 32 of the Act details the persons competent to present a document for registration before the registering authority. Section 32(a) speaks of the person 'executing' or 'claiming under' the document presenting it for registration while Section 32(b) refers to the presentation by a representative or assign of such person. Section 32(c), on the other hand, speaks of presentation of the document by the agent of such person, representative or assign, who has been authorized to do so by a power of attorney, executed and authenticated in the manner prescribed.

9. As per Section 33 of the Act, the power of attorney recognizable for the 'purposes of Section 32' has to fulfil the requirements set out therein so as to validate it and, in consequence, the presentation of the document by such power-of-attorney holder for registration. We may also note that Rules 49 to 55 in Chapter XI of the Andhra Pradesh Rules framed under the Act set out the requirements for compliance with the mandate of Section 33 of the Act. Rule 49(i) pertains to a registered power of attorney and states that the registering officer should satisfy himself as to the identity of the party and, after obtaining his left thumb impression against his signature, when necessary, authenticate it in the prescribed format as set out therein. Rule 49(ii) relates to an unregistered power of attorney and details the procedure of authentication to be followed in such a case. Rule 53 categorically states that even if a power of attorney is registered, it would not be valid for registration purposes unless it is authenticated.

10. Further, Section 34(3)(a) of the Act casts a duty on the registering officer to enquire whether or not the document presented for registration was executed by the person(s) by whom it purports to have been executed; satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document; and in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear. Finally, Section 35 of the Act speaks of the registering officer satisfying himself as to the competence and identity of the person(s) presenting the document for registration.

11. The view taken in **Rajni Tandon** (*supra*) is that, if the power-of-attorney holder is authorized to execute a document, say, a sale deed, he would then become the 'executant' of the sale deed and can directly present it for registration under Section 32(a) of the Act and it would not be necessary to apply the tests prescribed under the Act apropos powers-of-attorney.

12. With due respect to the learned Judges who decided **Rajni Tandon** (*supra*), we are unable to subscribe to this view. A power-of-attorney holder executes a document, say, a sale deed, not in his own name but in the name of his principal, and signs it on behalf of the principal by virtue of the authority conferred upon him by the power of attorney. He does not, thereby, become the 'executant' of the sale deed as the said sale deed would invariably be executed in the name of the principal, who would be shown therein as represented by the power-of-attorney holder. The power-of-attorney holder, therefore, does not become the 'executant' referred to in Section 32(a) of the Act but would still remain the agent and, by virtue of being authorized by the power of attorney, he merely executes and signs it on that principal's behalf.

13. That is the reason why, generally, a power of attorney not only authorizes the power-of-attorney holder to execute documents of transfer, i.e., sale deeds, on behalf of the principal, but further authorizes that power-of-attorney holder to present such sale deeds for registration before the registering officer. In the present case also, the alleged Irrevocable General Power of Attorney dated 15.10.1990 contains like clauses that read as under:

'2. To Sign all the documents of transfer such as sale Deed/s mortgage, lease, deeds, etc. in respect of all above Property on my behalf.

3. To sell, mortgage or lease out the above property infavour of any person or persons whomsoever as she likes on my behalf.

4. To present and sign all the documents of transferBefore the registering authority, by executing the same in respect of the above property on my behalf.'

Therefore, a power-of-attorney holder, having signed the document as an agent of the principal pursuant to the authority conferred on him by the power of attorney, then presents it for registration, having been specifically authorized to do so by the power of attorney, and not because he is the 'executant' of the document in terms of Section 32(a) of the Act.

14. The contrary interpretation adopted and applied by the Bench in **Rajni Tandon** (*supra*) would lead to a rather incongruous situation where a notarized power-of-attorney holder, as in that case, who executes a sale deed would become its 'executant' in terms of Section 32(a) of the Act and would be entitled to get the sale deed registered without further ado but, hypothetically and only for the purpose of illustration without reference to the legal repercussions and validity of such an act, if that notarized power-of-attorney holder then executes a power-of-attorney, even if registered, in favour of any person to merely present the sale deed executed by him for registration, that registered power-of-attorney holder has to pass the tests set out in Sections 32(c), 33, 34 and 35 of the Act! In effect, the merely mechanical act of presentation of a document for registration would have to be subjected to rigorous scrutiny but the weightier act of executing a document transferring title in immovable property on behalf of the true owner, on the strength of a power of attorney, which may even be unregistered or just notarized, passes muster straightaway and need not be subjected to any of the tests prescribed in the Act!

15. Further, the Bench did not note that Section 34(3) of the Act requires the registering officer to conduct a detailed enquiry as to whether the document presented for registration was executed by the persons by whom it 'purports to have been executed' and also satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document. In addition, Section 35(2) of the Act posits a duty upon the registering officer to satisfy himself that the persons appearing before him are the persons 'they represent themselves to be'.

16. Therefore, when G. Rajender Kumar, the power-of-attorney holder, presented the three sale deeds in question for registration, wherein he had signed on behalf of his alleged principals, viz., Ranveer Singh and Gyanu Bai, the Registrar necessarily had to satisfy himself, not only about his identity, but also as to whether G. Rajender Kumar had the authority to sign the documents on their behalf. This, inevitably, would require verification of the power of attorney, which would then have to pass all the prescribed tests. In our opinion, elevating G. Rajender Kumar, the alleged power-of-attorney holder, to the status of 'the executant' of the sale deeds in question would be contrary to the recitals in the sale deeds themselves, as the sale deeds name the principals, viz., Ranveer Singh and Gyanu Bai, as the executants and not G. Rajender Kumar, the power-of-attorney holder, who allegedly represented them and signed the sale deeds on their behalf.

17. By merely signing a document on behalf of the principal, a power-of-attorney holder does not lose his status as an agent of that principal and become the 'executant' in his own right. Such an agent would, therefore, continue to be covered by Section 32(c) of the Act as he would then present the signed document for registration only as an agent and must necessarily satisfy the requirements of Sections 32(c), 33, 34 and 35 of the Act and the rules framed in that context.

18. **Rajni Tandon** (*supra*) holds to the contrary and declares that a power-of-attorney holder who signs a sale deed on behalf of the principal would become the 'executant' thereof and would be covered by Section 32(a) of the Act, whereby he/she need not fulfil the requirements of Sections 32(c) and 33 of the Act and the contextual rules framed thereunder. With all due respect, as we are unable to persuade ourselves to agree with that view, we are of the considered opinion that the said issue requires to be addressed and conclusively settled by a larger Bench.

19. We, accordingly, direct the Registry to obtain necessary orders from the Hon'ble The Chief Justice as to the expeditious listing of these appeals before an appropriate Bench.