



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6495 OF 2023

THANKAMMA GEORGE

... APPELLANT

VERSUS

LILLY THOMAS AND ANOTHER

... RESPONDENT(S)

J U D G M E N T

S.V.N. BHATTI, J.

I. FACTUAL MATRIX

1. Thankamma George/Appellant, and Lilly Thomas/Respondent No. 1, are sisters, and the daughters of one late George. P.M. Thomas/Respondent No. 2 is the husband of Respondent No. 1. The Appellant filed O.S. No. 139 of 2011 dated 11.05.2011 before the Court of Senior Civil Judge, Pathanamthitta for the relief of declaration that the Appellant is the sole title holder of the suit schedule property and for recovery of possession from the Respondents. The Appellant prayed that she be declared as the exclusive and sole owner of one-half of the plaint schedule property, sale deed no. 345/2008 dated 16.04.2008 (Ex. A-5) of

Enathu Sub-Registrar office as *void ab initio*, for consequential relief of perpetual injunction restraining the Respondents from alienating and from encumbering the suit schedule property in any manner. The frame of the suit is for more than one relief and the suit schedule consists of an extent of 8.47 ares (1013 sq. yds.) in Re-Sy. No. 216/6, Block No. 19 of Village Ezhamkulam. The suit schedule reads thus:

“8.47 Ares of land to the South and West of the North Eastern 3.03 Ares in 11.50 Ares in Re-Sy. No.216/6 of Block No.19, corresponding to old Sy. No.621/6 with the double-storeyed residential and shop building presently bearing Panchayath Nos.X/17, A, B and C, of Ezhamkulam Grama Panchayath”.

2. The Appellant and Respondent No. 1, on 16.01.1991, through sale deed no. 61/1991 purchased 11.50 ares of open plot from one Sivadasan Pillai. On 04.12.2003, the Appellant, since had been working abroad, executed Power of Attorney No. 44/2003 (Ex. A-4) concerning the property covered by the sale deed dated 16.01.1991, in favour of Respondent No. 1. The Power of Attorney authorized Respondent No. 1 to execute appropriate deeds, if necessary, sale deeds, and receive sale consideration for and on behalf of the Appellant. The Power of Attorney (Ex. A-4) creates the relationship of the principal and the agent between the Appellant and Respondent No. 1. Ex. A-4 recites that sale can be effected, subject to necessity and accounting for sale proceeds. On 18.01.2008, the Appellant and Respondent No. 1, contrary to the principal and agent relationship, executed a sale deed in favour of one Joemon and his wife. Thus, upon the sale of a portion of the open plot, the Appellant/Plaintiff retained

an extent of 8.47 ares as described in the suit schedule. On 16.04.2008, Respondent No. 1, by way of sale, transferred the suit schedule in favour of her husband/Respondent No. 2 vide sale deed no. 345/2008 (Ex. A-5). On 26.02.2009, the Appellant filed a petition before the Taluk Legal Services Authority for redressal of the dispute, i.e., the alienation of the Appellant's half share in the suit schedule in favour of Respondent No. 2. The Appellant did not get any relief from the Legal Services Authority; hence, on 11.05.2011, the Appellant filed the Suit for the reliefs noted above.

II. PLAINT AVERMENTS:

3. The Appellant has resided abroad since 1966 and worked as a Nurse in Bahrain, the U.K. and the U.S.A.. She claims to have remained as a spinster. From the earnings as a Nurse, the Appellant has supported Respondent No. 1 in more than one sense. The plaint refers to a few circumstances claiming exclusive ownership of the property purchased through sale deed nos. 61 and 877 of 1991. We are not referring to these averments for the appeal, which is confined to the relief granted by the Trial Court, i.e., half share in the suit schedule property. Having regard to the Appellant working overseas, Respondent No. 1 was authorised to act as the Appellant's agent, depending upon necessity. Contrary to the Power of Attorney dated 04.12.2003 (Ex. A-4), the Appellant in her capacity as the owner of the property, sold an extent of 3.03 ares in favour of Joemon and his wife. Thereafter, Respondent No. 1, through

Ex. A-5, i.e., sale deed dated 16.04.2008, sold the property retained by the sisters to Respondent No. 2. The Appellant averred that the agency granted was withdrawn when the Appellant joined in the execution of sale deed No. 59 of 2008 in favour of Joemon and his wife. Therefore, the sale deed dated 16.04.2008 (Ex. A-5), executed after implied revocation, is *void ab initio*. Ex. A-5 was executed without, both, the Appellant's knowledge, and the transfer of sale consideration by Respondent No. 2 to Respondent No. 1; thus, no right or title to the extent of half share of the Appellant is created or transferred in favour of Respondent No. 2. The sale unsupported by consideration is illegal and *void ab initio*. The cause of action for filing the suit arose when the Appellant moved the Legal Services Authority on 26.02.2009. Knowledge of the execution of Ex. A-5 is stated to have been acquired about that time.

III. AVERMENTS IN WRITTEN STATEMENT OF RESPONDENT NOS. 1 & 2:

4. The Respondents admit the relationship. The Appellant has been a U.S. citizen since 1991. It is admitted that the Appellant retired from service in 2007 and stayed and lived with Respondent Nos. 1 and 2 between 2007 and 2009. After filing the suit, the Appellant again left for the U.S.A. The sale deed dated 16.04.2008 (Ex. A-5) in favour of Respondent No. 2 was executed when the Appellant resided with the Respondents in India. Respondent No. 1 admits the joint execution of the sale deed dated 18.01.2008 (Ex. A-3) in favour of Joemon and his wife. It is explained by averring that the total consideration received as

sale consideration under Ex. A-3 was Rs. 7,00,000/-, and a sum of Rs. 2,00,000/- was paid in foreign currency to the Appellant. The balance of Rs. 5,00,000/- was deposited in the joint account of Appellant and Respondent No. 1. Respondent No. 1 asserts to have the authority of an agent given through Power of Attorney dated 04.12.2003 (Ex. A-4); therefore, the sale deed dated 16.04.2008 (Ex. A-5) in favour of Respondent No. 2 is valid and binds the Appellant. In fine, the defense taken by Respondent No. 1 is that she has the authority to act on behalf of the Appellant. The Appellant received sale consideration in the previous transaction. The suit is filed beyond the limitation period and, therefore, is liable to be dismissed.

5. The Trial Court framed the following issues for consideration:

1. *“Whether the plaintiff is entitled to a declaration as prayed for?”*
2. *Whether the plaintiff is entitled for recovery of possession of plaint scheduled property?*
3. *Whether plaintiff is entitled for ½ right over plaint scheduled property?*
4. *Whether the plaintiff is entitled for separate possession of her share by metes and bounds?*
5. *Whether the sale deed No.345/08 is liable to be set aside?*
6. *Whether the plaintiff is entitled for a permanent prohibitory injunction as prayed for?*
7. *Relief and cost.”*

6. The Appellant marked Exs. A-1 to A-11 and examined P.Ws. 1 to 5. Respondent No. 1 was examined as D.W.1 and Exs. B-1 to B-3 were marked on behalf of Respondent No. 1. On third-party evidence, Exs. X-1 to X-12 were marked.

7. The Trial Court, on examination of oral and documentary evidence, rejected the claim of the Appellant for declaration as the owner of the entire suit schedule property but accepted the alternate prayer for partition and decreed the suit accordingly. The Trial Court on whether the authority granted in favour of Respondent No. 1 continued to remain until the execution of the sale deed dated 18.01.2008 (Ex. A-3), as late as 16.04.2008, when the sale deed (Ex. A-5) was executed by Respondent No. 1 in favour of Respondent No. 2, held that the execution of Ex. A-3 by the Appellant as a co-executant along with Respondent No. 1 results in revocation of power granted in favour of Respondent No. 1. The finding recorded is that the agency in favour of Respondent No. 1 by an act of implied revocation stood terminated. Consequently, it is held that the alienation of the Appellant's half share by the Respondents in the suit schedule property is illegal and not binding on the Appellant. Adverting to the absence of consideration under Ex. A-5, the Trial Court relied on the categorical admission of Respondent No. 1 as D.W.1 and noticed that no consideration was passed from Respondent No. 2 to Respondent No. 1 and the sale in Ex. A-5 is *void ab initio*. On the above consideration, the Trial Court decreed the suit for partition, and the operative portion of the judgment reads thus:

- 1. Plaintiff ½ right over plaint scheduled property is hereby declared.*
- 2. The Ext.A5 sale deed No.345/08 executed by 1st defendant in favour of 2nd defendant is void, hence set aside.*
- 3. Intimate the cancellation of Ext.A5 to SRO concerned.*

4. *The plaintiff is entitled for partition of plaint scheduled property as follows:-*

- a) *Plaintiff is entitled for ½ share right over plaint scheduled property.*
- b) *Plaintiff is entitled for separate possession of that share by metes and bounds.*
- c) *File final decree application within 3 months from date of the preliminary decree.*
- d) *Plaintiff is entitled for recovery of that ½ share after final decree.*

5. *Defendants are hereby restrained by a permanent prohibitory injunction from alienating plaint scheduled property, inducting strangers into possession, encumbering the same and from committing any act of waste therein tell ommitting any act of waste therein effecting affecting recovery of possession of plaintiff ½ share from plaint scheduled property.*

6. *The suit is kept in sine-die.*

7. *Considering the facts and circumstances of the case, there is no order as to cost”.*

8. Respondent No. 1, aggrieved by the Trial Court judgment, filed R.F.A. No. 405 of 2016 before the High Court of Kerala at Ernakulam. Through the impugned judgment dated 08.03.2022, the Appeal was allowed at the instance of Respondent No. 1. The High Court, in the impugned judgment, noted what (i) would be the effect of a registered power of attorney authorising the agent to execute and transfer immoveable property; (ii) whether unilateral cancellation after the exercise of the right of alienation given under the power of attorney is available; (iii) what would be the effect of the sale executed by the power holder with respect to an immoveable property; (iv) what amounts to a document *void ab initio* or void document; (v) whether the Trial Court is justified in decreeing the suit of the Appellant. We may observe that the question framed by the High Court as a preface for consideration suffers from more than one fallacy, one of them being unilateral cancellation after exercising the right of alienation in

favour of Respondent No. 1. To explain, it is noted at this juncture that the chronology and the plaint averments disclose that the Appellant's implied cancellation of power of attorney is not after execution of the sale deed dated 16.04.2008 (Ex. A-5). That apart, the Appellate Court held that the frame of the suit is incorrect and illegal since the plaint does not pray for setting aside the Ex. A-5 on available grounds such as fraud, undue influence, coercion, etc. Therefore, the declaration of Ex. A-5, in the absence of available legal grounds as *void ab initio*, reflects the failure of the Trial Court to appreciate the concept of *void ab initio* and the underlying legal implication involved in the said concept. The Appellant came to know of the execution of the sale deed dated 16.04.2008 (Ex. A-5) in the year 2009. The Appellant did not question Ex. A-5 till the suit was filed on 11.05.2011. The registration of the sale deed amounts to constructive notice to the Appellant. The suit for the relief of setting aside Ex. A-5, it is noted, that though the plea of limitation is not taken, the suit is still barred by limitation. The Appellate Court records in the impugned judgment that the mere fact of the Appellant joining in execution along with Respondent No. 1 in executing the sale deed dated 18.01.2008 (Ex. A-3) does not amount to implied revocation. The joint execution of the sale deed will neither affect the cancellation nor the revocation of the power of attorney. The non-receipt of sale consideration once the sale was completed in terms of Section 54 of the Transfer of Property Act, 1882, and Section 17 of the Registration Act, 1908,

the vendor under a deed not supported by a sale consideration has the remedy of receiving the sale consideration from the vendee. The legality of the sale is not affected by the non-receipt of sale consideration. Through the impugned judgment, the Appeal was allowed. Hence, the Civil Appeal at the instance of the Appellant.

IV. SUBMISSIONS:

9. We have heard the Shri V. Chitambaresh, for the Appellant and Shri Harish Beeran for the Respondents.

10. Shri V. Chitambaresh, Ld. Senior Counsel for the Appellant, argues that the impugned judgment is inconsistent with the case pleaded or proved by the parties. Insofar as the finding recorded against the Appellant by the Trial Court, she does not propose to reopen the findings accepted by the Appellate Court. Still, denying half share to the Appellant in the suit schedule property is *per se* illegal. The consideration by the impugned judgment proceeds on an erroneous appreciation or application of Sections 207 and 208 of the Indian Contract Act, 1872 (hereinafter referred to as “the Act”). The Appellant, being the principal, is authorised by law to expressly cancel or recall the authority granted to Respondent No. 1. The Appellant can plead and prove that by an implied act of revocation, which is to the knowledge of Respondent No. 1 and Respondent No. 2, the Power of Attorney (Ex. A-4) stood cancelled. The execution of the sale deed dated 16.04.2008 (Ex. A-5) by Respondent No. 1 in favour of

Respondent No. 2 does not bind the Appellant and the Appellant continues to be the half shareholder of plaintiff schedule. It is argued that the Power of Attorney (Ex. A-4) is one in the nature of necessity enabling Respondent No. 1 to act in accordance with the conditions stipulated. One of the conditions is that the Appellant was absent from the country when the requirement to execute arose. The Appellant retired in 2007 and was in India on the date of execution of the sale deed dated 18.01.2008 (Ex. A-3) in favour of Joemon. For the above reasons, Respondent No. 1 ceased to be an agent of the Appellant and, hence, Ex. A-5 was executed without authority.

10.1 It is argued that one of the essential ingredients of a legal and valid sale is receipt of sale consideration by the vendor. Under Section 55 of the Transfer of Property Act, 1882, to constitute a sale, the conveyance must be for consideration, and the vendor must receive the sale consideration. The receipt or non-receipt of consideration insofar as parties to the document present more than one remedy, a third party to Ex. A-5 can raise the plea of Ex. A-5 being illegal and *void ab initio*. The admission, on non-receipt of sale consideration, goes to the root of the legality of Ex. A-5.

11. Shri Haris Beeran, Ld. Counsel for the Respondents, argues that, patently, the suit is barred by limitation. The plea of implied revocation of authority *vis-à-vis* Respondent No. 1 is illegal and not available in the facts and circumstances of the case. The impugned judgment examined each of the

circumstances stated in the case, the evidence adduced by the parties together with the contemporaneous conduct and dismissed the suit of the Appellant. Once it is admitted that power of attorney is executed by the Appellant, thereby Respondent No. 1 is the agent, recalling the said power of attorney must be established as a matter of fact. The joint execution does not amount to the implied revocation of the authority of Respondent No. 1 as the power of attorney of the Appellant. Ld. Counsel fairly states that keeping in perspective the view expressed by this Court in ***Amar Nath v. Gian Chand & Anr.***¹, the power of attorney need not be cancelled by a registered deed alone. We find it convenient to excerpt the following paragraph from the above citation, and it reads thus:

“83. We need not pronounce on the question whether the power of attorney being registered, it could be cancelled only by a registered power of attorney. This we say as even in the absence of a registered cancellation of the power of attorney, there must be cancellation and it must further be brought to the notice of the third party at any rate as already noticed. Such a cancellation is not made out”.

12. Given the above-accepted position in law, we need to examine the method and mode of recalling the power of an agent. In the circumstances of this case, whether the implied revocation is made out. In the case on hand, the controversy centers around the implied revocation of the agency. In this judgment, we are not dealing with a power of attorney coupled with interest and revocation, etc. The Appellant accepted the sale deed dated 16.04.2008 (Ex. A-5), and the total sale consideration of her share was said to have been received

¹ (2022) 11 SCC 460.

at the time of execution of the sale deed dated 18.01.2008 (Ex. A-3). The consideration by the Appellate Court is legal and valid, and the jurisdiction of this Court under Article 136 of the Constitution of India is not made out. It is argued and brought on record that the Respondents are in a settled possession of the suit schedule property by constructing a house. The house in existence is constructed by Respondent No. 2. The Appellant is not entitled to partition of the constructed portion.

V. ANALYSIS

13. We have perused the record and noted the rival submissions.

14. The admitted circumstances of the case are (i) the relationship between the Appellant and Respondent No. 1, and Respondent No. 1 and Respondent No. 2; (ii) the employment of the Appellant as a Nurse in Bahrain, the U.K. and the U.S.A.; (iii) purchase of suit schedule property in 1991 by the Appellant and Respondent No. 1; (iv) execution of the Power of Attorney dated 04.12.2003 (Ex. A-4); (v) execution of the sale deed dated 18.01.2008 (Ex. A-3) in favour of Joemon; (vi) execution of sale deed dated 16.04.2008 (Ex. A-5) by Respondent No. 1 in favour of Respondent No. 2. The Appellant and Respondent No. 1 are co-owners of the schedule property. Respondent No. 1 was the Appellant's agent. Therefore, the question for decision is whether the execution of Ex. A-3 amounts to implied revocation under Section 207 read with Section 208 of the Act.

15. We examine the plea of limitation raised by the Respondents. The Respondents' case is that the suit was filed on 11.05.2011, and in effect, the suit seeks to set aside the sale deed dated 16.04.2008 (Ex. A-5). The suit was filed beyond the limitation period and should have been dismissed. Limitation is a question of law and fact. The period of limitation and the time from which the period begins to run, depend on the article in the schedule appended to the Limitation Act of 1963. The case falls under "Part III – Suits Relating to Declarations". Article 58 reads thus:

| <i>Description of suit</i> | <i>Period of Limitation</i> | <i>Time from which period begins to run</i> |
|--|-----------------------------|---|
| <i>To obtain any other declaration</i> | <i>Three years</i> | <i>When the right to sue first accrues.</i> |

15.1 The words "when the right to sue first accrues" have been interpreted and held by this Court in ***Smt. Neelam Kumari & Anr. v. U.P. Financial Corporation***². The starting point for the limitation in the case of setting aside sale deeds has two limbs: the date of execution and the date of knowledge. There is no difficulty in applying the period of limitation expiring three years from the date of execution, provided that the Appellant had knowledge of Ex. A-5 on the date of registration and the right to sue first accrued. The Respondents, in the circumstances of the case, failed to establish the Appellant's knowledge of the execution of Ex. A-5. In the final analysis, Ex. A-5 is held as without authority

² AIR 2009 Utt 5.

and void. The applicability of limitation has a different perspective. So, the starting point is when the right to sue first accrued to the Appellant. The admitted case of the Respondents is that the Appellant is a US citizen and she stayed abroad. Therefore, unless it is clearly established as a fact that the Appellant had knowledge of Ex. A-5, it cannot be inferred that the Appellant had contemporaneous knowledge of Ex. A-5 and the limitation started running from the date of execution of Ex. A-5. That apart, another fact is whether the said exhibit is void or voidable and this depends on the implied revocation relied on by the Appellant. From a consideration of relevant circumstances, including the filing of a grievance petition before the Legal Services Authority and the reply of the Respondents in the instant suit, we are of the view that the suit is filed within three years from the date when the right to sue first accrued to Appellant and, therefore, the suit is not barred by limitation. Even if the plea of limitation is held against the Respondents, the outcome still depends on the relationship as principal and agent between the Appellant and Respondent No. 1 and the existence and effect of implied revocation pleaded to question the validity of Ex. A-5.

16. The terms 'agent' and 'agency' have several different meanings, but in law the word 'agency' is used to connote the relationship which exists where one person has the authority or capacity to create a legal relationship between a person occupying the position of principal and third parties. The relationship of

agency arises whenever one person, called the agent, has the authority to act on behalf of another, called the principal, and consents to act as such. The relationship has its genesis in a contract, as has been held in **Syed Abdul Khader v. Rami Reddy & Ors**³. The case of Respondent No. 1 is that the Power of Attorney dated 04.12.2003 (Ex. A-4) is the contract authorising her to act as the power of attorney holder of the Appellant. The sale deed dated 16.04.2008 (Ex. A-5) is not for consideration, but on the contrary, it imposed restrictions on the discretion of Respondent No. 1. We are not invited to interpret these clauses and, hence, we do not examine them. The Appellant executed Ex. A-4 in favour of Respondent No. 1. In law, the Appellant is bound by the acts performed by Respondent No. 1 in due course and under the authority given by the Appellant to Respondent No. 1 through Ex. A-4. The Appellant, when she was residing with the Respondents in India post-retirement, executed the sale deed dated 18.01.2008 (Ex. A-3) in favour of third parties. The co-execution of Ex. A-3 is not disputed, and Respondent No. 2 is one of the witnesses to Ex. A-3. Sections 207 and 208 of the Act read thus:

“207. Revocation and renunciation may be expressed or implied.—Revocation and renunciation may be expressed or may be implied in the conduct of the principal or agent respectively.

208. When termination of agent’s authority takes effect as to agent, and as to third persons.— The termination of the authority of an agent does not, so far as regards the agent, take effect before it becomes known to him, or, so far as regards third persons, before it becomes known to them”.

³ AIR 1979 SC 553.

17. The Act provides for express or implied revocation and renunciation of agency. Section 207 provides for express or implied revocation or renunciation. Section 208 sets out the effective date of termination of authority with regard to an agent and a third person. Let us refer to a few citations dealing with the revocation of agency.

18. This Court, in ***Deb Ratan Biswas & Ors v. Most. Anand Moyi Devi & Ors.***⁴ dealt with a case of signing of compromise by the principal/defendants during the existence of the agency, and if such independent signing amounts to implied revocation of power of attorney executed in favour of the attorneys.

Relevant paragraphs read thus:

“9. The principal Pushpa Biswas and Apurva Kumar Biswas have signed the compromise for partition of the property, which in our opinion in law amounts to implied revocation of power of attorney in favour of Dr. Sanjeev Kumar Mishra vide Illustration to Section 207 of the Indian Contract Act. Pushpa Biswas and Apurva Kumar Biswas cannot be allowed to say that their own act of signing the compromise petition was collusive and fraudulent.

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11. The principal is not bound to consult his attorney before signing a compromise petition.

12. It is well-settled that even after execution of a power of attorney the principal can act independently and does not have to take the consent of the attorney. The attorney is after all only an agent of the principal. Even after executing a power of attorney the principal can act on his own”.

⁴ 2011 SCC OnLine SC 633.

19. The High Court of Punjab and Haryana in ***Amrik Singh (deceased) represented by his legal heirs Darshan Singh & Ors. v. Sohan Singh (deceased) by his legal heirs Gurudev Kaur & Ors.***⁵, tracing the power of revocation under Section 207 of the Act, held that the revocation of the power of attorney could be either express or implied as provided under Section 207 of the Act.

20. In ***N. Shivkumar & Anr. v. R. Peter Pereira***⁶, the Madras High Court dealt with a case where the principal executing a settlement deed in the subsistence of a power of attorney, and held as under:

“23. When Sec.207 preceding Sec.208 of the Act provides for revocation and renunciation by even an implied conduct of the principal, there is no impediment for the principal to deal with the property that belongs to the principal. When a settlement deed came to be executed on 18.04.2007, and the same was also duly registered before the concerned Sub Registrar, it was an implied act of revocation/renunciation of the Power of Attorney dated 29.05.2002 executed in favour of the 1st Appellant. Therefore, on the date of the execution of the settlement deed by Thelma Cecelia Pereira on 18.04.2007, it resulted in an implied revocation of the Power of Attorney dated 29.05.2002 and the 1st Appellant had no authority to deal with the property of the principal on or after 18.04.2007.

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25. Though the counsel for the Appellants would also draw any attention to Ex.B.3 Will under which Thelma Cecelia Pereira bequeathed the suit property to the defendant, the said Will also gets superceded and impliedly revoked by the testatrix, by executing a settlement deed in favour of her brother, Raymond Pereira.

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⁵ 1987 SCC Online P&H 891.

⁶ S.A. No.1206 of 2014 (Madras HC).

27. *A con-joint reading of Sections 201 and 207 of the Contract Act and especially the illustrations appended to these Sections, I am of the view that the principal viz., Thelma Cecelia Pereira was well within her right and authority to deal with the suit property, de hors the Power of Attorney and during its subsistence and the moment the settlement deed was executed by the principal herself, it resulted in an automatic implied termination of the Power of Attorney given to the power agent.*

(Emphasis supplied)

21. In the absence of a particular mode suggested for revocation of the authority of an agent, the manner adopted by the principal to revoke the authority of the agent must be one which clearly and unequivocally communicates to the parties i.e., to be affected by such revocation, that the agent's authority has been withdrawn. In the framework of Sections 207 and 208 of the Act, the revocation/renunciation of authority may be made by express words or may be implied from the words and conduct of the principal, viz., which is inconsistent with the continuance of the agency. This is one facet of renunciation or revocation of authority of an agent; the other facet is governed by Section 208 of the Act. Section 208 provides for the effective time and date of termination of the agent's authority and third parties. From a plain reading, Section 208 infers and gives effect to revocation upon the twin conditions being satisfied, (i) communication to the agent and (ii) knowledge to a third party i.e., one who deals with or is likely to deal with the agent. Then, the revocation of authority becomes known to the agent and the said third parties. In other words, an idea in the mind of the principal to revoke cannot be construed as implied revocation or renunciation of agency. There ought to be an act or conduct of the

principal which implies that the agency is revoked or withdrawn. If the revocation is expressed, such as by publication in newspapers, public notice or advertisement, communication to the agent etc., the parties who deal with the agent have a reasonable opportunity to know the revocation of agency by the principal. Two stages of revocation are, *firstly*, one dealing with the agent, and *secondly*, one which applies to the third parties. For attracting the consequence of revocation to either of the situations, the revocation of the agent's authority is made by the principal in a manner that clearly implies that the principal has withdrawn the authority to act on his or her behalf by the agent. Followed by knowledge to third parties, let us examine the circumstances of the case on whether implied revocation coupled with communication is established.

22. The Power of Attorney (Ex. A-4) was executed on 04.12.2003. The Appellant, on 30.11.2007, claims to have retired from service and settled in India. A power of attorney confers power for the execution of deeds in situations of necessity, including in the absence of the Appellant in the country. From the record, it can be noted that from 2007 onwards, the Appellant was not entirely absent from India or residing exclusively in the U.S.A. Therefore, the Appellant and Respondent No. 1 executed the sale deed dated 18.01.2008 (Ex. A-3). Respondent No. 2 is one of the witnesses to Ex. A-3. The execution of sale deed dated 16.04.2008 (Ex. A-5) is inconsistent with and contradictory to the power granted to Respondent No. 1 in Ex. A-4. This is an explicit conduct of the

Appellant to act for herself on the share she holds in the property purchased in 1991. In ***Deb Ratan Biswas (supra)***, this Court held that the signing of a compromise by the defendants themselves would amount to implied revocation of power of attorney. In a case where the principal chooses to act for himself, particularly to the agent's knowledge and a person to be affected, then it can be held that Section 207 of the Act is attracted. We have no doubt in holding that the Appellant, in terms of Section 207, impliedly revoked the authority of Respondent No. 1, and as required by Section 208, Respondent No. 2 had the knowledge of the independent dealing with the property by the Appellant. Therefore, the revocation takes effect on 18.01.2008. Ex. A-5 was executed on 16.04.2008. Thus, with the operation of implied revocation of authority, Respondent No. 1 cannot act as an agent of the Appellant and, hence, the sale deed insofar as the Appellant's share in the suit schedule is held *void ab initio*.

23. The ancillary argument is on non-receipt of consideration under Ex. A-5.

Let us refer to the evidence of D.W.1, which reads as follows:

“(Q) No. Immediately after the marriage, I sold the property to my husband. On 16-4-08, after the marriage, the property was sold to the husband for consideration. Agreed to pay an amount of Rs.80,000 as consideration. But not given. We are wife and husband. The consideration other than what is stated in the deed has not been given? (Q) No. When the property was sold to the husband the plaintiff was in the native place”.

24. Evidence of D.W.1 is clear that Ex. A-5 is not supported by consideration.

The Appellant is a third party to Ex. A-5. For the view, we have taken on implied

revocation of Ex. A-4 by the Appellant, the deliberation of this issue does not influence the conclusion. Therefore, we merely express our agreement with the findings recorded by the Trial Court on this behalf.

25. As already noted, the impugned judgment excerpted a slew of unavailable questions and answered them in an axiomatic way. Since the findings are conflicting, we have, within our jurisdiction under Article 136 of the Constitution of India, examined the record and the contentions urged by the parties. We are convinced that the impugned judgment is unsustainable, and consequently, the appeal succeeds and is allowed. The judgment and the decree of the Trial Court are confirmed.

25.1 We take note of the close relationship between the Appellant and the Respondents, and that the Respondents have constructed the house and reside in the house. Admittedly, the Appellant is not successful in her claim for half share in the house constructed in the plaint schedule. Therefore, it would be legal and equitable to direct the Trial Court first to explore the possibility of determining the market value of the Appellant's half share in the suit schedule property and subject to the Respondents paying the current market value to the Appellant towards her half share, a final decree be passed accordingly. If the parties do not arrive at a consensus on the current market value, the operative portion in the judgment and decree of the Trial Court could be put to final decree proceedings and execution in accordance with the law. In such an event, the

Appellant compensates the Respondents for possessing the constructed area along with her half share in the plaint schedule.

26. Civil Appeal is allowed. No order as to costs.

.....J.
[C.T. RAVIKUMAR]

.....J.
[S.V.N. BHATTI]

**NEW DELHI;
JULY 9, 2024.**