

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**WP(C) No. 1375/2026
CM No. 3044/2026**

**Reserved on: 05.08.2026
Pronounced on: 14.08.2026
Uploaded on: 14.08.2026**

Whether the operative part or full judgment is
pronounced: Full judgment.

Muzaffar Hussain Rather Age
60 years S/o Abdul Sattar Rather
R/o Ward No. 6, Gujjar Nagar,Appellant(s)/Petitioner(s)
Jammu.

Through: Mr. Azmat Ullah Parihar, Advocate

Vs

- 1. Union Territory of J&K**
through Commissioner
Revenue Department, Civil
Secretariat, Jammu.
- 2. Sub Registrar (SRO**
Jammu South Janipur).
- 3. Chand Bi Bi** W/o Mohamad
Sharief R/o Village Changa,
Tehsil Gundoh District
Doda.

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG with
Ms. Sagira Jaffer, Advocate

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. The petitioner had executed an "Irrevocable General Power Attorney" dated 25.03.2009 in favour of respondent No. 3. It is contended that upon discovering the fraudulent act on the part of respondent No. 3 in gross violation of the trust reposed in her through the medium of power of attorney mentioned above, the petitioner took steps to revoke the General

Power of Attorney by issuing the Public Notice in the “News Now” in its edition dated 14.08.2025 and also issued legal notice dated 18.08.2025 to respondent No. 3. Thereafter, the petitioner approached respondent No. 2 for registration of the revocation of the General Power of Attorney dated 12.08.2025 but respondent No. 2 neither registered the revocation deed nor passed any reasoned order of refusal. It is contended that in terms of Section 201, an agency can be terminated at the will of the principal and the so called irrevocable clause cannot override the statutory provision. It is further contended that under Section 202 of the Indian Contract Act, a power of attorney becomes irrevocable when it is coupled with an independent interest in the subject matter, whereas in the instant case, no consideration was ever paid by respondent No. 3, nor was any interest of respondent No. 3 created in the subject power of attorney.

2. Respondent No. 2 has filed response, stating therein that vide Government Order No. 03-JK(REV) of 2023 dated 02.01.2023 issued by the Revenue Department, Government of Jammu and Kashmir in partial modification of Government Order No. 183-JK(REV) of 2022 dated 18.10.2022, it has been ordered that entry at Serial No. 32 relating to Article “Cancellation of Instrument” shall always be deemed to have been deleted *ab initio* with retrospective effect. It is stated that the said deletion proceeds from the settled position in law that a Sub-Registrar, exercising purely ministerial/statutory functions under the Registration Act, possesses no power whatsoever to “cancel an instrument” and such power vests exclusively in a competent Civil Court in terms of Section 31 of the Specific Relief Act. It is further stated that J&K NGDRS Portal (National

Generic Document Registration System) does not, as on date, provide any distinct document-category or workflow titled 'Revocation of Power of Attorney' and in the absence of any such category and in further absence, post 02.01.2023, of the erstwhile category of 'Cancellation of Instrument', there exists no legally correct or technically available head under which the document in question, as presented by the petitioner, could have been registered by respondent No. 2. It is also stated that the petitioner has an efficacious alternative remedy available to him, to institute a civil suit for declaration and consequential relief(s), wherein the question of validity and continuance of General Power of Attorney dated 25.03.2009, the effect of the alleged revocation thereof, and the fate of any alienations already made by respondent No. 3 can be gone into after full-fledged trial.

3. Heard learned counsel for the parties and perused the record.

4. It needs to be noted that no notice is required to be issued to respondent No.3, as the respondent No. 3, is not required to be heard before registration of revocation of Power of Attorney. If the revocation of Power of Attorney is illegal, the same can be assailed in accordance with law by the person aggrieved of such revocation. Before this court proceeds ahead, it would be apposite take note of section 34 of the Registration Act, 1908, which is extracted as under:

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, if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, in addition to the fine, if any, payable under section 25, the document may be registered.

(2) Appearances under sub-section (1) may be simultaneous or at different times.

(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) Any application for a direction under the proviso to sub-section (1) may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

(5) Nothing in this section applies to copies of decrees or orders.”

5. Accordingly, the powers and domain of the Sub-Registrar are strictly governed and bounded by Section 34(3) of the Registration Act, 1908, which is confined to satisfying himself as to the execution of the document by the person purporting to execute it and his/her identity. While the Government has promulgated the Jammu and Kashmir Registration (Identity Verification for Registration of Documents) Rules, 2023 to operationalize Section 34, these Rules do not empower the Sub-Registrar to inquire into or decide upon the legality, validity, or merits of the document submitted for registration.
6. In this context, it would be appropriate to take note of the judgment of the Hon’ble Apex Court in case ‘**K. Gopi Vs. Sub-Registrar and others**’, **AIR 2025 SC (Civil) 1303**, wherein has observed as under:

“15.The registering officer is not concerned with the title held by the executant. He has no adjudicatory power to decide whether the executant has any title. Even if an executant executes a sale deed or a lease in respect of a land in respect of which he has no title, the registering officer cannot refuse to register the document if all the procedural compliances are made and the necessary stamp duty as well as registration charges/fee are paid. **We may note here that under the scheme of the 1908 Act, it is not the function of the Sub-Registrar or Registering Authority to ascertain whether the vendor has title to the property which he is seeking to transfer. Once the registering authority is satisfied that the parties to the document are present before him and the parties admit execution thereof before him, subject to making procedural compliances as narrated above, the document must be registered.** The execution and registration of a document have

the effect of transferring only those rights, if any, that the executant possesses. If the executant has no right, title, or interest in the property, the registered document cannot effect any transfer.

16. Therefore, assuming that there is a power under Section 69 of the 1908 Act to frame the Rules, Rule 55A(i) is inconsistent with the provisions of the 1908 Act. Due to the inconsistency, Rule 55A(i) will have to be declared ultra vires the 1908 Act. The rule-making power under Section 69 cannot be exercised to make a Rule that is inconsistent with the provisions of the 1908 Act. Rule 55A(i) is accordingly declared as ultra vires the 1908 Act.”

(emphasis added)

7. Respondent No. 2 has mainly banked upon the order dated 02.01.2023, whereby the entry at Serial No. 32, relating to Article ‘Cancellation of Instrument’ was deleted and declared void *ab initio*. The order dated 02.01.2023 was issued for modification of Government Order No. 183-JK(REV) of 2022 dated 18.10.2022. The order dated 18.10.2022 is extracted as under:-

“It has been reliably learnt that during scrutiny of the documents presented for registration, a few of the Sub Registrars point out deficiencies in piece-meals or seek additional documents thereby putting the citizens to avoidable hardships. This practice besides being time consuming and un-supportive of good governance has the potential to create doubts about the online document registration through National Generic Document Registration System (NGDRS)

As the Sub Registrars have a specific mandate under the Registration Act, 1908 and provisions of revenue laws, it would be incumbent upon them to discharge their statutory duties diligently with a citizen-centric approach, to realize the objective of transparent document registration services, a harbinger of Digital Governance across UT of J&K. Such document(s) as do not qualify for registration can be reverted/refused by a Sub Registrar upon citing valid reasons in writing. The Revenue Officers are required to provide accurate inputs as per requirement so that registration of a documents which constitutes a milieu for conferment of title and ownership rights to a citizen through mutation does not suffer from any infirmity or aberration.

In order to ensure uniformity in seeking of documents for registration of various instruments/articles, a checklist of documents (**As per Annexure**) has been drawn for reference of the registering officers. The Registering Officers shall refer to the checklist while processing documents for registration. The Registering Officers are directed to adopt a citizen-centric approach while discharging their statutory duties in terms of the provisions of the Registration Act, 1908 and relevant laws/rules/standing orders/instructions of the Government. In no case should they resort to seeking of such documents as are not backed by the

relevant laws/rules. Furthermore, the Revenue Officers are directed to provide accurate inputs in terms of Revenue Extracts/Map/Schedule of property etc. as per requirement to ensure quality document registration.”

8. A bare perusal of the executive order *supra* demonstrates that it was issued solely to curb the practice of Sub-Registrars raising piecemeal objections and demanding additional documents incrementally, a mechanism that subjected the public to harassment. To establish procedural uniformity, a comprehensive checklist of documents was prescribed for registering officers, mandating strict compliance therewith to foster a citizen-centric system. The subsequent deletion of Entry No. 32 from this administrative checklist cannot be construed to mean that the Sub-Registrar has been divested of its statutory jurisdiction to register a Revocation of Power of Attorney.
9. It is settled law that Respondent No. 2 exercises purely ministerial duties under the provisions of the Registration Act, 1908, and possesses no adjudicatory or advisory power under the statutory framework. By tendering unsolicited advice that the petitioner must resort to civil remedies to seek cancellation of the Power of Attorney, Respondent No. 2 has acted entirely beyond the scope of its statutory mandate. The conduct of Respondent No. 2 in keeping the registration of the revocation deed pending is antithetical to public service and reflects an unwarranted, citizen-frustrating approach.
10. Furthermore, it is a settled principle of jurisprudence that the simple designation of a document as an 'irrevocable power of attorney' does not alter its fundamental nature. A power of attorney is rendered irrevocable

only if it creates a distinct right or interest in the subject matter in favour of the attorney holder pursuant to Section 202 of the Contract Act. In absence of any such interest, the authority remains inherently revocable at the instance of the principal. In **M. S. Ananthamurthy & anr. Vs. J. Manjula etc. 2025INSC273**, the Hon'ble Apex Court has observed as under:

46. Applying the above exposition of law in the facts of the present case, it is evident from the tenor of POA that is not irrevocable as it was not executed to effectuate security or to secure interest of the agent. **The holder of POA could not be said to have an interest in the subject-matter of the agency and mere use of the word 'irrevocable' in a POA would not make the POA irrevocable. The High Court was right in holding that the holder did not have any interest in the POA.** When the High Court observes that the power of attorney does not explicitly state the reason for its execution, it implies that its nature is general rather than special.

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48. From the independent reading of the POA and the agreement to sell, **the submissions of the appellants fail on two grounds, first, the POA is general in nature and does not secure agent's right in the subject-matter of the agency, and secondly, an agreement to sell simpliciter does not confer ownership in the immovable property so as to transfer a better title to anyone else. iii. Combined Reading of the General Power of Attorney and the Agreement to sell simpliciter does not confer ownership in the immovable property so as to transfer a better title to anyone else.**

X X X X X X X X X

55. **The High Court rightly held that even though the GPA and the agreement to sell were contemporaneous documents executed by the original owner in favour of the holder, this alone cannot be a factor to reach the conclusion that she had an interest in the POA. Thus, even though the GPA and the agreement to sell were contemporaneous documents executed by the original owner in favour of the same beneficiary, this cannot be the sole factor to conclude that she had an interest in the subject-matter.** Even if such an argument were to persuade this Court, document must have been registered as per Section 17(1)(b) of the Registration Act. In the absence of such registration, it would not be open for the holder of the POA to content that she had a valid right, title and interest in the immovable property to execute the registered sale deed in favour of appellant no. 2.

(emphasis added)

11. The contention of respondent No. 2 that a civil suit is to be filed in terms of Section 31 of Specific Relief Act for cancellation of instrument is misconceived. It is also stated that under J&K NGDRS Portal, there is no provision for registration of documents titled as revocation of power of attorney. This, too, cannot be relied upon as a ground to delay or deny registration of the Revocation of Power of Attorney, particularly when it is the specific stand of respondent No. 2 that the entry at Serial No. 32, relating to the Article “Cancellation of Instrument”, has been deleted ab initio. This necessarily indicates that, prior to such deletion, documents falling under the said Article were being registered.
12. In view of the above, the present writ petition is allowed. The Sub Registrar is directed to register the document i.e. Irrevocable Power of Attorney, within the period of 07 days from the date of receipt of this order, provided there is no other legal impediment.
13. **Disposed of.**

(RAJNESH OSWAL)
JUDGE

Jammu
14.08.2026,
Neha-II

Whether the order is speaking:	Yes.
Whether the order is reportable:	Yes.