

A power of attorney holder can act only within the authority expressly or necessarily conferred by the instrument, and a power to sell, manage, deal with, or transact affairs does not include a power to execute a gift deed unless such authority is specifically granted

The **Gujarat High Court** in the case of **Purshotam Ranchhodbhai Pankhania vs Harihar Ambalal Patel [R/First Appeal No. 259 of 2020]** dated **July 15, 2026**, has held that a power of attorney holder can act only within the authority expressly or necessarily conferred by the instrument, and a power to sell, manage, deal with, or transact affairs does not include a power to execute a gift deed unless such authority is specifically granted. Further, where the principal dies, the agency stands terminated by operation of Section 201 of the Contract Act, and any act done thereafter on behalf of the deceased principal is without authority and legally invalid.

The Court also held that Section 208 of the Contract Act and Section 3 of the Powers-of-Attorney Act cannot save a transaction where the attorney had no authority in the first place to execute a gift deed, and where the act of presenting such deed after the principal's death is itself void and lacking in bona fides. In such a situation, the transferee acquires no title.

The Court framed the core issue as whether an act done by a power of attorney holder, despite there being no such authority in the instrument, and particularly after the death of one of the principals, could be treated as legal and binding. The Court reiterated that a power of attorney creates a principal-agent relationship, and the holder can do only those acts which are specified and authorised by the executant.

The Court rejected the respondent's attempt to take shelter under Section 208 of the Contract Act. It observed that termination by death operates automatically in law, and once the agency comes to an end, the agent has no authority to act further. The Court made it clear that a dead person cannot be represented in a contract through an agent after death, and therefore the plea of ignorance of death could not validate the execution or presentation of the gift deed for registration.

The Court also examined Section 3 of the Powers-of-Attorney Act, 1882, which protects acts done in good faith without knowledge of death. Even then, the Court held that the protection did not help the defendants. It observed that the very presentation of a conveyance deed for registration after the principal's death, particularly when the attorney claimed to enjoy a family-like relationship with the principal, lacked bona fides. The Court said such conduct reflected a fraudulent act and could not convey title to immovable property.

On the construction of the powers of attorney, the Court held that such instruments must be strictly construed. General words cannot be used to enlarge specifically conferred powers. After extracting the clauses of both powers of attorney, the Court found that neither document contained any authority to make a gift of the property. At best, the powers related to management, sale, purchase, leasing, banking, litigation and general affairs, but not gifting. The Court expressly held that the documents did not authorise making of a gift and that any transfer contemplated under them had to be for consideration.

