

B.A.LL.B. VIII SEMESTER

SUBJECT: DRAFTING OF PLEADING & CONVEYANCING

CODE: BL-805

Topic: Power of Attorney

Power of Attorney:- Power of Attorney is a legal document executed by one or more persons giving an authority to one or more persons to act on his or her behalf. Power of Attorney is governed by the Power of Attorney Act, 1882. The person giving authority is called the Attorney of the party giving the authority. The person receiving powers is called Power of Attorney holder. Normally, there is no requirement for registration for power – of – Attorney. However, if the power of attorney creates an interest in any immovable property, then the Power of Attorney must be registered. Power of Attorney can be authenticated before a Registrar or Sub Registrar within whose District or Sub district the principal resides and in case a Power of Attorney is executed outside of India, it can be authenticated by a Notary Public or any court, judge, Magistrate, Indian Counsel or via Counsel or a representative of the Central Government.

The person who delegates his powers to another is called the principal or the grantor while the individual who is authorized is known as the agent. The agent could be granted the power to buy a home, negotiate a business deal or make cash withdrawals for his grantor.

An individual who has suddenly been affected by some form of mental instability may decide to grant a special power of attorney which will give the agent some limited powers to that will enable him to buy, sell or manage a property in his capacity.

The Power of Attorney is an agreement signed by the parties which authorizes an individual to act in the capacity of another on either general or special capacity. A power of Attorney can either be limited or complete.

In a general Power of Attorney, the agent is authorized to make all the decisions in the capacity of the grantor. If you are to stay away from the country for a long time, you can authorize the agent to carry on with business transactions , payment of staff, deals and management of your properties. Under a general Power of Attorney , the agent is granted wide / unlimited authority on all affairs that pertain to the obligations of the Principal.

A special Power of Attorney is a document or an authorization that empower the agent or the attorney in fact to act in the capacity of the grantor under specific circumstances. In a special Power of Attorney , the powers that has been granted will be executed in specific aspects as may be contained the agreement.

In many instances, different persons may be granted the special power of attorney and will be named by the grantor for their specific area of interest.

The following steps must be taken to ensure that your deed is legalized.

- 1 It must be made in a Stamp paper.
- 2 The signature of the grantor must appear at the bottom of all the pages of the agreement.
- 3 The deed must ne signed by two witnesses.
- 4 If it is not involving an immovable property it can be notarized.
- 5 The document must be registered within the jurisdiction of its location and only at the Sub-registrar's office.

Can the Special Power of Attorney be Created by Residents in Another Country to Get their Tasks Done in India:- If your place of domicile is outside India but you have the intentions of granting special power of attorney to an agent who is residing in India to perform some specific task on your behalf, then you should take the following steps :-

- 1 Get the agreement drafted on a white and plain paper.
- 2 The draft should be attested by the Indian embassy in your country of residence. Note that the deed should also be notarized there.
- 3 As the grantor, you will have to sign in all the pages of the document.
- 4 Get the attested copy of the agreement to someone residing in India via a registered post.
- 5 The deed should be registered by the Indian recipient based on the rules of registration in his area of residence.

Sample of General Power of Attorney

(This is just a guide line and clients are expected to finalise their own draft as per their requirements from their Advocate)

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Known all men by these presents that I ----- s/o-----aged-----
----- yrs r/o-----, state as follows:-

Whereas I am personally unable to attend the managerial and other affairs with respect to my property ----- (Description of Property) -----
--, So I, hereby nominate and appoint Shri/Smt ----- R/o -----
as my true and lawful Attorney to act for and on my behalf and I authorize and empower him to do the following acts, deeds and things on my behalf.

- 1 To rent the aforementioned property by leave and license agreement.
- 2 To purchase the stamp, make sign , execute and admit the execution of leave an license agreement and appear before the sub registrar for the registration of the leave and license agreement of the aforesaid property.
- 3 To demand, collect the rent due on the aforementioned property.
- 4 To manage and control my aforesaid property including collection of monthly rents, from the licenses and issuance of proper stamped receipts acknowledging the rent received.
- 5 To make applications, affidavits , documents etc., to the Govt. Departments and any other concerned authorities, required for the managing of the aforesaid property and to do all other acts, deeds and things in respect thereof.
- 6 To effect an carry out necessary repairs, additions, etc ., in the said property as and when may be desired, and for this purpose obtain all the necessary permissions and/or sanctions, necessary from any appropriate authority.
- 7 To deal with Govt. Departments and other local bodies for the purpose of any essential facilities or amenities required to ne provided in the building. He can sign all papers and documents etc. for this purpose.
- 8 To pay all the taxes, Municipal levies and other taxes, which may be , required to be paid.
- 9 To file any objections with Govt. departments or other local body of Government for any Purpose related with said property.

10 To furnish the details of License to concerned Police Stations , to get No Objection from the local police by appearing personally as and when required or called by the police of concerned jurisdiction.

11 To pay maintenance charges to society and attend society meetings.

12 To engage any Advocate or Attorney for the purpose and or to appear for and represent our in all the courts, civil, criminal or revenue including labour tribunals, original, revisional or appellate, in any registration offices, and also to present appeals in any court, and also to accept services of all summons, notices and other processes of law.

13 AND GENERALLY TO DO ALL other acts, deeds and things , which my said attorneys may deem fit and proper for maintenance , upkeep of my property.

14 This power of attorney is without any consideration.

Provided that the said attorney shall not sell or transfer the ownership of the property to any person. Provided further that the said attorney shall keep true accounts of all activities performed by virtue of this power of attorney.

AND

I hereby agree and undertake to confirm and ratify all and whatsoever my said attorney shall do or purport to do by the virtue of this Power of Attorney.

IN WITNESS WHERE OF this deed is signed by me at ----- on this -----day if -----.

1. EXECUTANT

Name & Signature –

2. ATTORNEY HOLDER

“I hereby accept all the powers.”

Name & Signature –

WITNESS :

1. -----

Name & Address of Witness 1

2. -----

Name & Address of Witness 2

For further queries you may reach us via..

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