GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
(REGISTRATION & STAMP BRANCH)
5, SHAM NATH MARG, DELHI-110054.
PHONE : 23965184.

No.F.1(92)/Regn.Br./Div.Comm./HQ/2012/PF-II/ 1196. Dated: 13/7/2016.

CIRCULAR

Subject: Procedure – complaints relating to fraudulent registrations through impersonation or production of false documents and evidences regarding.

The large numbers of petitions being received in this department reveal that numbers of fraudulent registrations are increasing day by day. However, normal response of the department to such petitions is to direct the aggrieved parties to approach Civil Court. But, this reply to the petitioner is like committing double jeopardy against him. Hence, such a reply by the department cannot be treated as appropriate in the light of the statutory powers conferred upon the registering officers under section 83, of Registration Act 1908 to file criminal case against the persons who are involved in fraudulent registration through impersonation or other means. Hence, filing of FIR is one of the statutory duties of the registering officer when such complaint is received. However, no such complaints are being entertained by the Sub-Registrars and no enquiries are being conducted by them and consequently no action is being taken on such complaints by the registering officers.

Similarly, Section 82 of Registration Act provides for the grounds for action under section 83 of the Registration Act and the quantum of punishment for the offences. The whole purpose of inserting section 82 and 83 in the Registration Act, 1908 by the Law makers was to punish the persons involved in registration of documents through impersonation or by giving false admissions or statements or by presenting false copies or translations of any document / map / plan etc. However, mere punitive action will not suffice and serve the objective of the registration act which aims at arresting fraud. Therefore, a curative remedy is necessary not only to provide relief to the aggrieved party but also to arrest further fraud and cheating of innocent future purchasers. Only such a course of action can serve the principles of natural justice. A Bench of the Andhra Pradesh High Court (A/R2007) has observed in Yanala Malleswari vs. Ananthalu Sayamma case that court did not see any prohibition for the registering authority to cancel sale deed earlier registered, which is likely to cause prejudice to the rightful owners as well as entire public at large.

In the same judgment, the Hon'ble High Court has observed that "it is thus law of the land that even administrative authorities have inherent powers to recall or revoke their own order if such order was obtained by playing fraud on such public authority." The judgment also refers to the observation of the Hon'ble Supreme Court in the case of Indian Bank vs. Satyam Fibres India Pvt. Ltd. which is as follows:-

"Inherent powers (to recall or revoke their own orders by the administrative authorities if the same was obtained by playing fraud on such public authority) spring not from legislation but from the nature and conservation of the authorities, to enable them to maintain their dignity, secure obedience to process and ensure transparency"

In a nut shell, they have observed the following:-

It is therefore exiomatic that in India, the quassi judicial and administrative authorities have inherent powers to recall their orders or proceedings as a later point of time if it is shown that such order was obtained by playing fraud and misinterpretation. The question of applicability of law of limitation to exercise such inherent power by the administrative authorities does not arise because fraud unravels everything rendering a fraudulent order void and non-existent. This principal in a different manner is also adumbrated in Section 21 of General Clauses Act, 1897 (Central Act No. X of 1897). Under the said provision, an authority who has power to issue, inter alia orders has also power to rescind such order.

Finally, they have opined as follows:-

"In the considered opinion of this court if a person sells away the property belonging to other, it would certainly be fraud on the statute. It would be adding insult to injury, if such person is asked to go to Civil Court and get the subsequent sale deed cancelled or seek a declaration".

In this regard, attention is further drawn to Sections 34(3) and 35 read with Rule 55 of the Registration Act, wherein duty has been cast on the Sub Registrars to consider objection raised on the grounds that the parties appearing before them are not the persons they profess to be or that the document is forged or that the representative / agent / assignee has no right to appear in that capacity or that the existing party is not really dead as alleged.

In light of the above discussion, following mandatory procedure is prescribed to deal with the complaints relating to fraudulent registrations through impersonation or production of false documents and evidences.

a. All such complaints of fraudulent registration received by the department have to be forwarded to the respective District Registrar who shall register the same in a register of complaints relating to fraudulent registration in the following format.

Sl. No.	Date	Name and address of the applicant	Document no. and SR office name	Name and address of the executants, claimants and witness

b. After entering the complaints, he shall issue notices to the executants of the document and witnesses to appear for enquiry along with the complainant and he should also take witness of the registering officer and if needed, call for the records from the concerned department and also summon the respective department's officials concerned to appear before him with relevant records.

c. Once the enquiry is completed following summary procedure and it is proved that the registration has taken place through impersonation and through production of false documents and statement / admissions, he shall pass orders to this effect, recording his findings and issue direction to the concerned registering officers to file FIR against the concerned persons and also to make a note in the index-II of the document which was fraudulent registered to the effect that the "registration annulled as per the proceedings of the District Registration (proceeding no. to be noted) and is shall have same effect as prescribed under Section 49 of the Registration Act."

d. After receiving the order of the District Registrar, the registering officer shall immediately file FIR and make entries as stated above in Index-II without any loss of time. The registering officer shall maintain a separate register in this regard in his office to register all such orders of the District Registrar in following format:

Sl. No.	Date of receipt of order of DR	Proceeding no.	Doc. no. of the document to be annulled	Date of filing FIR	Date of making note in Index-II	Signature of the registering officer

e. The District Registrar should complete the enquiry maximum in 02 months in each case and if the parties are not appearing for more than 2 summons, ex-parte order should be passed based upon the documents, evidences and witnesses available. While issuing summons, mode of speed post may be adopted.

However, these instructions will not apply to the cases where the complainant has admitted execution by himself due to whatever reasons. It is further emphasized that the procedure prescribed above is only to deal with fraudulent registrations done and it should in no way be construed to mean that the registering authority shall go into the issue of deciding title in case of rival claims on certain basis.

Any failure in registering complaints relating to fraudulent registration through impersonation or production of false documents / statements etc., and initiation of enquiry followed by filling FIR and making of annulment entries in Index-II shall be viewed seriously and necessary disciplinary action will be initiated against the concerned District Registrar (Admin) and the registering officer.

This order comes into immediate effect.

Any party aggrieved by the orders of the District Registrar may take up the matter with Inspector General of Registration.

(JUHI MUKHERJEE)
(Inspector General of Registration)

No.F.1(92)/Regn.Br./Div.Comm./HQ/2012/PF-II/ 1196 Dated: 13/7/2016

Copy to:

1. All District Magistrates, Revenue Department, GNCT of Delhi, Delhi / New Delhi.
2. Special Vigilance Commissioner, GNCT of Delhi, Plot No. 419, FIE, 4TH Floor, Udyog Sadan, Patparganj, Delhi.
3. All Additional District Magistrates, Revenue Department, GNCT of Delhi, Delhi / New Delhi.
4. Sr. System Analyst, Revenue Department (HQ), 5, Shamnath Marg, Delhi - 110054 with the request to upload the same on the departmental website.
5. All Collectors of Stamp / S.D.M, Revenue Department, GNCT of Delhi, Delhi / New Delhi.
6. All Sub Registrar / e-Sub Registrar (s), Revenue Department, GNCT of Delhi, Delhi / New Delhi.
7. P.A. to Secretary (Revenue), 5, Shamnath Marg, Delhi - 110054.
8. P.A. to Deputy Commissioner (HQ), 5, Shamnath Marg, Delhi- 110054.
9. P.A. to Inspector General of Registration, 5, Shamnath Marg, Delhi – 110054.

(JUHI MUKHERJEE)
(Inspector General of Registration)