

OFFICE OF INSPECTOR GENERAL OF REGISTRATION
DEPARTMENT OF REVENUE
GOVERNMENT OF NCT OF DELHI
5, SHAM NATH MARG, DELHI

No.F.1(92)/RB/DivCom/HQ/2012/311-320 Date :- 12 November, 2014

CIRCULAR

**Sub: GUIDELINES ISSUED UNDER SECTION 69 OF INDIAN
REGISTRATION ACT FOR COMPLIANCE BY ALL SUB
REGISTRAR OFFICES**

In order to provide effective and efficient registration services to the public and ensure smooth functioning of the registration process, following guidelines are issued for compliance by all the Sub Registrar Offices.

(1) All the Sub Registrars are hereby directed to ensure strict compliance of all the provisions of The Registration Act, 1908 and Indian Stamp Act, 1899 and other related statutes and circulars/order issued by the Revenue Department from time to time in connection with registration of documents.

(2) PRESENTATION OF DOCUMENT :

The Sub-Registrar shall ensure strict compliance of the parameters necessary for the presentation of the document viz.

(a) Documents of which registration is compulsory (Section 17 and 17-A of The Registration Act 1908) – Section 17 of The Registration Act, 1908 lays the instruments whose registration is compulsory which covers documents such as Sale Deed, Gift Deed, Partition Deed, Mortgage Deed, Lease Deed for term

exceeding one year and other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property.

- (b) Documents of which registration is optional (Section 18 of The Registration Act 1908) – Section 18 of The Registration Act 1908 lays the instruments whose registration is optional which covers documents such as Will, General Power of Attorney, Lease Deed for term of less than one year and other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of less than one hundred rupees, to or in immovable property.
- (c) Original photographs of the parties are pasted not only on the original document but also on the second copy of the instrument meant for the record purposes by the office of Sub-Registrar.
- (d) (i) All documents other than Will shall be presented for registration within 4 (four) months of its execution (Section 23 of Registration Act, 1908)
- (ii) If the document presented is beyond the permissible limit the same shall be referred to the Registrar, who may allow it on payment of fine upto ten times (Section 25 of Registration Act, 1908). The delay in such cases shall not be for more than 4 (four) months.



(e) **Jurisdiction of Sub Registrar –**

- (i) The documents covered under Section 17 of The Registration Act and are compulsory registrable document, then the same shall be presented in the office of the Sub Registrar, in whose jurisdiction part or whole of the property is situated.
- (ii) In other cases (other than 'WILL' and documents covered in (i) above), the documents shall be presented in the office where the Principal/Executant of the instrument resides and,
- (iii) In case of 'Will', the same may be registered in the office of any Sub Registrar.

(f) The Sub-Registrar has ascertained and evaluated correctly the stamp duty chargeable on the instrument.

(g) Interlineations, alteration, blank, erasure etc. if any appearing in the instrument is duly attested by the parties or party executing the document.

(h) If the subject matter of the instrument is immovable property, such property has been properly identified in the instrument and the site plan is annexed to identify the property.

(i) In the case of an instrument relating to immovable property the particulars in form of **Form A** providing relevant details of the property under transfer shall be provided in pursuance to Notification No.F.2(12)/Fin.(F1)/PartFile/Vol.1(i)/3547 dated 18/07/2007 issued by the then Joint Secretary (Revenue). This form is filled and demanded to ensure that property is not undervalued and in order to prevent theft of stamp duty by declaring less market value of the property under transfer.



- (j) After scrutiny, endorsement by hand or by stamp to the effect that the "document scrutinized" has been put on the instrument.
- (k) The instrument is 'locked' by using user I.D. and password after the document is admitted for registration and the endorsement / stamp of 'locked' put on the instrument.
- (l) Identification documents of the executants and witnesses are annexed with the instrument .
- (m) No person other than parties to the document and witnesses shall be allowed to enter the Sub Registrar office/premises. No person other than parties shall be allowed to present the documents or enter into the Sub Registrar Office.

3) MODE OF IDENTIFICATION OF PARTIES THROUGH AADHAR NUMBER :

AADHAR Number / Enrolment Slip may be demanded to ensure identification of the parties. In case a person has no AADHAR Card but he is having enrolment slip, he should be permitted to avail the services. In case a person does not possess either enrolment slip or a Aadhaar Card/Number, he should be asked to apply for the enrollment of Aadhaar card immediately at the Centre and be provided enrollment slip and after that he can avail the services.

4) ADMISSION OF EXECUTION

Endorsement of the S.R. that the person executing the documents has admitted the execution of the instrument and he is fully aware of the salient features of the contents of the instrument.



5) **ISSUE OF CHARGEABILITY OF STAMP DUTY :**

All the Sub Registrars are directed to charge stamp duty on the instruments as per schedule applicable on the date of execution of the instruments.

6) **COMPULSORY SIGNING OF ENDORSEMENT**

The Sub-Registrars shall sign the endorsement under Section 52 and 58 of The Registration Act immediately as and when party(s) concerned submits the instrument duly executed and the same shall be put without any delay whatsoever i.e. on the same day.

7) **DEFICIENCY MEMO IN CASE OF DISCREPANCY IN THE INSTRUMENT :**

If there is any discrepancy in the document presented, the Sub-Registrar shall issue deficiency memo immediately on the same day and at the spot to the parties concerned by a speaking order explaining clearly the deficiency. The document shall not be kept pending for any reason after removal of deficiency or after the expiry of time period given in the Memo.

8) **EXTENT OF ENQUIRY AS REGARD TITLE :**

(i) Under the Indian Registration Act, no power has been conferred upon the registering authority to examine and enquire into the title of the property. The Sub-Registrar is not entitled to probe-in to the title as mentioned in the instrument in as much as it is for the parties to examine, ensure and verify the true character and title of the property as subject matter of the instrument. The Sub-Registrar is to ensure only that the executant or duly authorised person, admit the execution

of the instrument and if the subject matter of the instrument is immovable property, such property has been properly identified in the instrument and if necessary the site plan is appended or annexed separately to identify the immovable property.

(ii) The Sub Registrar shall not keep any document pending on the ground of complaint made by any party unless there is a stay order granted by court of law to maintain status quo or restraining the transfer of the property.

9) DOCUMENT PRESENTED THROUGH ATTORNEY :

- (i) The document may be presented in the Office of Sub Registrar for registration either by the persons executing the same or through agent or representative duly authorized by Power of Attorney executed and authenticated in accordance to the manner as laid down in Section 33 of The Registration Act, 1908.
- (ii) As the attorney is valid only till the life time of the Executant, the Sub-Registrar may, if the transaction is being effected through attorney holder, reasonably satisfy himself that the Executant of the power of attorney is still alive.

10) CLARIFICATION REGARDING POWER OF ATTORNEY

(i) JURISDICTION FOR REGISTRATION OF POWER OF ATTORNEY

A power of attorney may be executed in the office of Sub-Registrar in whose jurisdiction the executants / principal resides irrespective of existence / or place of immovable property

(ii) GPA IN NATURE OF SALE.



a) The Sub Registrars should look into the contents of the document presented for registration in order to ascertain the nature of document and stamp duty chargeable on the same. It has been noticed that people are presenting the documents which contain the contents of a Conveyance but, in order to evade the stamp duty payable, the document is prepared under the title of "General Power of Attorney".

b) Such kind of practices can be stopped when the Sub Registrars look into the nature and contents of the document and stamp duty should be levied accordingly. If the document presented for registration is titled as "General Power of Attorney" but its contents contains the following clauses then the same shall be deemed to be in the nature of Conveyance and the Sub Registrar shall refer it to the concerned Collector of Stamps for adjudication of adequate stamp duty payable on it (these are some of the indicative clauses and not the exhaustive list of factors) :-

- (a) The consideration has been paid for execution of the Power of Attorney.
- (b) The Power of Attorney presented is "irrevocable" in nature.
- (c) The POA empower Attorney to sell, gift, exchange or permanently alienate the immovable property & the consideration received thereof is receivable in the name of the executants.
- (d) The possession of the property has been transferred to the Attorney through General Power of Attorney.



11) **INSTRUMENT UNDER VALUED HOW TO BE DEALT**

If the Registering officer, while registering any instrument transferring any property, has reason to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon.

12) **IMPOUNDING OF DOCUMENTS (Section 33 of Indian Stamp Act)**

The Sub-Registrar should not impound the document as a matter of routine and only in genuine cases where the stamp duty chargeable to the instrument is found deficient that the instrument be impounded that too within the parameters of section 33 of the Indian Stamp Act.

In these cases, the Sub Registrar on acceptance of document for registration, shall firstly endorse Section 52 and 58 on the document and only then shall refer the same to the Collector of Stamps for adjudication of the adequate stamp duty payable on it.

13) **FINAL SIGNING THE CERTIFICATE OF REGISTRATION AS PER SECTION 60 OF THE ACT :**

According to this Section the Certificate of Registration is to be endorsed after the provisions of Section 34, 35, 58 and 59 have been complied with. A certificate of Registration is evidence that the document was duly registered. As soon as the document is scrutinized and is made complete in all respects and is made as per law, then the Sub Registrar shall finally issue the Certificate of Registration under Section 60 and sign the same.

14) ON REFUSAL TO REGISTER THE DOCUMENT :

If the Sub-Registrar is of the opinion that the document presented for registration is against any of the provisions of law or administrative instructions / order, the Sub-Registrar may refuse to register the document after hearing the parties concerned. The refusal order should be a speaking order recording the reason for refusal and duly recorded in relevant Book Number. A copy of the refusal order be also sent to the Deputy Commissioner of the District, SDM, (HQ), Spl. IGR apart from delivering a copy to the parties concerned.

15) DOCUMENTS REGISTERED OR REFUSED TO BE PASTED IN BOOKS :

The documents registered or refused registration shall be pasted in the following books immediately but ⁱⁿ not more than 3 days

Book 1 - "Register of non-testamentary document relating to immovable property".

Book 2 - "Record of reasons for refusal to register".

Book 3 - "Register of wills and authorities to adopt"; and

Book 4 - "Miscellaneous Register".

16) DELIVERY OF DOCUMENTS :

(i) The documents shall be delivered strictly between 15:00 to 17:00 hours.

(ii) It is directed that after registration the document shall be made available for delivery at Delivery Counter, on the same day of presentation of document.

(iii) In case, the person taking delivery of the document, is duly authorized representative of the executants, the delivery clerk shall in addition to the receipt signed by the executants demand authority letter

duly executed in his favour authorizing him to take the delivery of document.

(iv) The delivery clerk shall affix the stamp in the manner indicated below :-

(i) Document delivered on by (Full signature with name & designation).

The delivery clerk shall maintain a register of delivered document in the format given below :-

S.No.	S.No. of the document & date of registration	Date of delivery	To whom delivered
--------------	---	-----------------------------	------------------------------

17) PROPERTIES BOOKED BY MCD AS UNAUTHORIZED :

In view of specific direction of Delhi High Court, immovable properties booked by the MCD under unauthorized construction are specifically prohibited from further registration of transaction, particulars of which are available on the website of the MCD. The Sub-Registrar shall not register instruments of properties which are booked by MCD. Sub Registrar shall not do interpolation of the property number.

18) CLARIFICATION AS REGARD JUDGMENT OF THE SUPREME COURT IN SURAJ LAMP & INDUSTRIES VS. STATE OF HARYANA / AGREEMENT TO SELL :

(i) The aforesaid judgment has no where questioned the power / jurisdiction / duties of the Sub-Registrar in respect of registration of document whether in the past or in future.

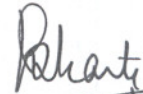
(ii) In case of lease hold properties, the Hon'ble Court clearly held that such type of property can be transferred through assignment of

lease which is also compulsory registrable document under section 17 of the Indian Registration Act chargeable to duty as per the Schedule-1A of the Stamp Act.

It is clarified to all the Sub-Registrar that under section 17(1-A) of the Registration Act, the documents containing contract to transfer for consideration any immovable property is compulsory registrable document if having been executed after the commencement of Registration (Amendment) Act, 2001 (w.e.f. 24-09-2001). An agreement to sell in respect of immovable property is covered under section 17(1-A) of The Registration Act and is a valid document to be registered if so desired by the parties and as such all these documents cannot be refused by Sub-Registrar.

19) BUILDER BUYER AGREEMENT OR COLLABORATION AGREEMENT :

In case of developer or collaboration agreement, the owner transfers his property for development / construction to the builder against consideration and hence, such documents are compulsory registrable under section 17(1-A) of the Registration Act chargeable to stamp duty under article 23A of the Indian Stamp Act. The same principle applies in case of builder buyer agreement also, in which possession is handed over against consideration and as such the Sub-Registrars are bound to register such documents, when presented.

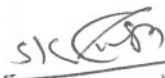

12/11/2014
(GYANESH BHARTI)
IGR, DELHI

No.F.1(92)/RB/DivCom/HQ/2012 | 311-320

Date :- 12 November, 2014

Copy for information & necessary action to:

1. All District Magistrates/ Registrars, Delhi/ New Delhi.
2. All Addl. District Magistrates, Delhi/ New Delhi.
3. All SDMs/ COSs, Delhi/ New Delhi.
4. All Sub Registrars, Delhi/New Delhi.
5. System Analyst with the request to upload the same on the department website today itself for all concerned.
6. PS to Secretary (Revenue) -cum-Divisional Commissioner, Delhi.
7. PA to Special IGR, (Revenue) Delhi.
8. Guard file.


(S.K. Chugh) 12/11/14

Sub Divisional Magistrate (HQ)-III