

Indian Registration Act, 1908



Registration

What Docs must be Registered [S. 17 (1)]

- a. Any Gift of immovable property sans limit
- b. Instruments that create, declare, assign, limit or extinguish rights in immovable property valued at Rs. 100/- or more.
- c. Acknowledgement of receipt of consideration for creation, declaration, assignment, limitation, extinction of rights in immovable property
- d. Lease of immovable property for year to year/exceeding 1 year/reserving a yearly rent



Registration

What Docs must be Registered [S. 17 (1)]

- e. Instrument transferring/assigning decree/order of Court /Award where it operates to create, declare, assign, limit or extinguish rights in immovable property valued at Rs. 100/- or more.
- f. Agreement for deposit of title deeds for loan/debt
- g. Sale certificate under any recovery act
- h. Irrevocable Power of Attorney for transfer of immovable property

Registration

Filing of Court Decrees/Attachment Orders (S. 89A)

- Any Court Order affecting any right in immovable property must be intimated to the jurisdictional Sub Registrar where the property is located (S. 89A)
- Any Certificate of Sale or Written demand before attachment of defaulter's immovable property issued by a Revenue recovery officer must also be similarly intimated.
- Withdrawal of such written demand, lifting of attachment of property or the sale of property must be intimated



Registration

Insertion of S. 17(1A) & S. 53 A of TOPA

- S. 53A of TOPA provided protection to a buyer against a seller claiming rights provided :
 - (a) There is a contract for purchase of immovable property (b) Transferee has taken /continues in possession & his willing to perform his part. c) transferee must have done some act in furtherance of the contract
- W.e.f. 11 Sept 2001 the protection will be available only if the contract is registered



Registration

Registration of Mortgages (S. 89B)

- Intimation of equitable mortgage to be filed by Mortgagor within 30 days with Registering Authority
- Details must include Name & Address of Mortgagor & Mortgagee, date of mortgage, amount received under mortgage, rate of interest, list of docs deposited & description of property.
- Future transactions of property void if intimation not filed
- Third party entitled to refund of monies + 12% interest and compensation. Such monies to be charge on interest of Mortgagor in property
- Penalty includes jail term of 1 to 3 Years plus fine



Registration

Compulsory Registration of Leases

- Section 17 of RA states that only leases of immovable property for any term exceeding one year must be registered.
- Proviso to Section 107 of TOPA states that **written leases** upto 1 year must be registered unless otherwise notified by the State Govt in the Official Gazette.
- Lease includes an agreement to lease



Registration

Exemptions [S. 17 (2)]

This Section excludes , *inter alia*, foll. documents referred to in 17(b) and (c) BUT NOT 17(a)

- Any instrument relating to shares in a Joint Stock Company
- Any debenture issued by any such Company
- Any endorsement upon or transfer of any debenture issued by any such Company; or
- Any document other than the documents specified in sub-section (1A)“merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish anysuch right, title or interest;

Registration

Exemptions [S. 17 (2)]

- Any grant of immovable property by the State Government ;or
- Any instrument of partition made by a Revenue - officer; or
- Any endorsement on a mortgage - deed acknowledging the payment of the whole or any part of the mortgage – money & any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage
- Any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue officer.

Registration

When to Register [S. 23, 25]

- Normally within 4 months from execution date
- In case of Multiple Executants, within 4 months from date of each execution
- If executed abroad, within 4 months of it's arrival in India

Note : These limits do not apply to a will which may be presented at any time.



Registration

Fine for late registration [S. 25]

Delay	Fine
1 month	2.5 Times
2 months	5 Times
3 months	7.5 Times
4 months	10 times

Registration

Supreme court Decision

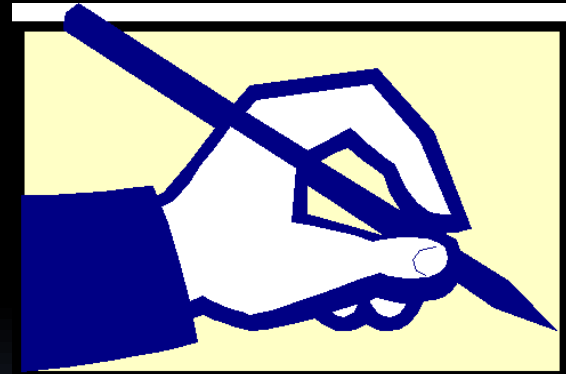
- SC judgment in Suraj Lamp & Industries case critical.
- Registration Act must be followed strictly w.e.f. Oct 11, 2011 (date of above order)
- Unregistered documents will not be permitted to be 'regularized' in any manner whatsoever.



Registration

Registration of Declaration deeds

- Practice of Registration of Confirmation/Declaration Deeds with old agreement signed over 8 months ago as Annexure was rampant
- Maharashtra Govt vide circular No. 617/2011/30808 dated 22/12/2011 has discontinued registration of such documents
- Old transactions can only be registered under current dated deeds.



Registration

Transfer in Registered Society

- Section 41 of Maharashtra Co-op Societies Act, 1960 grants specific exemption
- **Resale** of Flats in Registered Society need not be Registered
- **Gifts** of flats however must be registered



Registration

Documents required for Registration

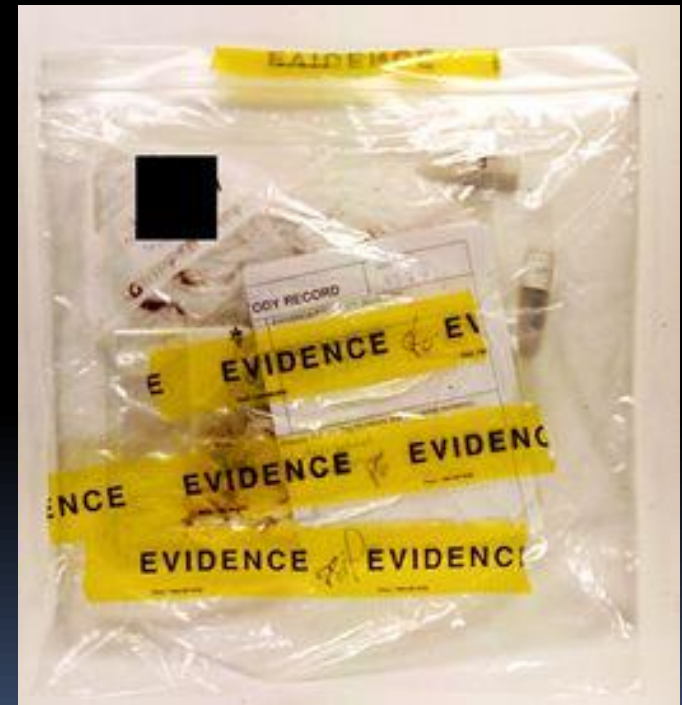
- Property card (Not required in Mumbai City)
- Occupancy Certificate
- Municipal Tax Bill (in the absence of OC)
- PAN Number of all parties or Form 6o/61
- Letter from Society
- Photo and Thumb Print of all parties



Registration

Consequences of Non Registration

- Document does not affect property
- Document cannot be received in evidence
- S. 53A of TOPA can't be enforced



Registration

Loss of Documents

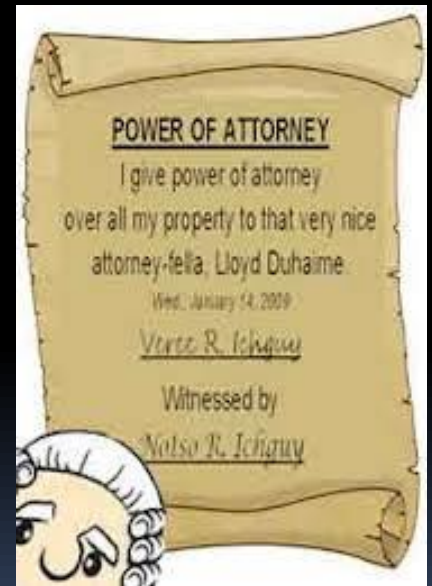
- File FIR with Police Station
- Obtain Advocate's "No Claim received" Certificate
 - Issue Public Notice
 - Conduct Search at Sub Registrar's office
 - Apply for Certified copy from SRO
- Obtain Duplicate Registration Receipt



Registration

Power of Attorney

- Sub clause (h) to S. 17(1) mandates compulsory registration of irrevocable power of attorney w.r.t. transfer of Immovable property
- S. 33 clearly specifies three types of POA's which are recognized for registration. Any other type of POA would be invalid i.e. the title itself would not pass



Registration

Recognized POA's

- (a) POA executed before Jurisdictional Sub Registrar where Principal resides in a part of India where Act is in force at the time of execution
- (b) POA executed before Magistrate where Principal resides in a part of India where Act is NOT in force at the time of execution
- (c) POA executed before Notary Public, Court, Judge, Magistrate, Indian Consul or Vice Consul, or representative of Central Govt. where Principal does not reside in India



Registration

Important Points

- Registration is prima facie proof of facts stated in document (s. 60)
- Registered Document is a public document open to all to inspect. Normally, a person is deemed to have notice of a registered document



Registration

Definitions in TOPA

- "a person is said to have notice" of a fact when he actually knows that fact, or when, but for wilful abstention from an enquiry or search which he ought to have made, or gross negligence, he would have known it.
- **Explanation I:** Where any transaction has been effected by a registered instrument, any person acquiring such property shall be deemed to have notice of such instrument as from the date of registration.
- **Explanation II :** Any person acquiring any immovable property or any share or interest in any such property shall be deemed to have notice of the title, if any, of any person who is for the time being in actual possession thereof.
- **Explanation III:** A person shall be deemed to have had notice of any fact if his agent acquires notice thereof whilst acting on his behalf in the course of business to which that fact is material

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धन्यवाद

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