



htestates

LAW BOOK

Sunil Tyagi

My father wants to execute a relinquishment deed of his property in my favour. Is it necessary for us to get this document registered?

– Sachin Dwivedi

Under the Registration Act, 1908, a relinquishment deed for an immovable property requires to be compulsorily registered. In case the relinquishment deed is not duly registered, no rights, title or interest in the property would pass in favour of the transferee (ie, you).

My mother is the sole owner of a flat. A few years ago, she executed a power of attorney in favour of my brother, authorising him to negotiate transactions and execute documents for leasing out the property. Recently, it came to our notice that my brother has sold the flat in favour of a third party. Can he do so?

– Nitin Mehta

From the facts provided, we assume that the wording of the clauses contained in the power of attorney were limited in scope and empowered your brother to execute only a lease deed/agreement to lease of the property by and on your mother's behalf. In case your brother was not authorised to execute a sale deed of the property in favour of a third party, his acts being beyond the limited scope of his powers and responsibilities set out in the power of attorney, would amount to breach of trust, and hence be liable to challenge in courts of law.

I am the absolute owner of a plot, but now wish to make both my wife and son equal and joint owners of this plot within my lifetime. How should I proceed?

– Ashish Choudhary

From the facts provided, it is not clear whether or not you wish to remain a joint owner of the plot, along with your wife and son. In case you wish to divest your ownership in the plot in entirety, you may execute a gift deed of your title and ownership in the entire plot in favour of your wife and son.

If you wish to be an owner of an equal and joint, undivided share in this plot along with your wife and son, you may execute a gift deed equivalent to one-third joint, undivided share each in favour of your wife and son.

This way, they can become joint owners of this property during your lifetime. For the gift to take effect and be legally valid, it is imperative to make full and timely payment of requisite stamp duty and registration fee on a gift deed of immovable property.

The author is a senior partner at Zeus Law, a corporate commercial law firm. One of its areas of specialisations is real estate transactional and litigation work.

If you have any queries, email us at htestates@hindustan-times.com or ht@zeus.firm.in

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