

htestates

NEW DELHI, SATURDAY, JULY 08, 2017, 4 PAGES, www.hindustantimes.com

Register the title documents – of immovable property



SUNIL TYAGI

Sunil Tyagi

feedback@livermint.com

The Registration Act, 1908 provides for the property related documents that require compulsory and optional registration. Section 17 of the Act enumerates property related documents for which registration is compulsory. Registration means recording of the contents of a document with a Registering Officer and preservation of copies of original registered document. Documents are registered with the objective of conservation of evidence, assurance of title, publicity of documents and prevention of fraud.

All such documents relating to property through which any right, title or interest is created or declared or assigned or limited or extinguished in present or future needs to be compulsorily registered. Sale, Mortgage, Exchange, Gift and Lease (of more than 11 months term) are some common modes of transfer immovable property and can be made only by registered instruments. The document for such transactions are mandatorily registerable beyond any doubts. Registering such documents after payment of appropriate stamp duty and registration fee, makes these documents authentic and admissible in courts of law.

The registered documents are available for verification by any person interested in purchasing the immovable property for verifying from the records of Sub-Registrar's office, the ownership and title status in respect of such property. The documents containing transfer of immovable property requiring compulsory registrations, need to contain clear description of the immovable property by metes and bounds, as well as clear descrip-



■ Registering of property documents is compulsory

MINT/FILE

tion of the rights, interests and appurtenances attached to the property being transferred. The purpose of registration of a document of transfer of immovable property is that on registration of such document, it becomes a permanent public record.

A public record can be inspected by any person and a certified copy can be obtained from the office of Sub-Registrar, even if the document is lost or destroyed.

Registration of a document is a notice to the general public that such immovable property has been transferred by the one person to another.

Thus, the process of registration helps curb forged and fraudulent transactions in immovable property as it ensures transparency and means for authentication.

If a document of transfer of immovable property whose registration is compulsory under section 17 of the Act, is not registered then, it will not be admissible in evidence in courts of law except for the limited purpose of being received as evidence for a suit for specific performance. There is no authenticity of a transfer document of immovable property, which is not registered. Non-registration not only renders the document inadmissible in evidence in courts of law, but a transfer of immovable property made through an unregistered document, fails to affect or confer any power to adopt such transfer of immovable property, in eyes of law.

Every document needs to be registered within four months from date of its execution as per the Act. But in unavoidable circumstances where the document remains unregistered within this time period, the registrar has powers to permit registration of the document on a case-to-case basis in case where the delay does not exceed four months, subject to payment of prescribed fine which may go upto ten times the amount of proper registration fee. Therefore, eight months is the outside limit for presenting a document for registration.

An unregistered document for transfer of immovable property cannot be relied upon for establishing the validity of the transaction as it is not recognized by the law.

A transaction of transfer of immovable property is only complete upon proper stamping and registration of the document recording such transfer of immovable property from one person to another. Therefore, it is important that the person acquiring right, title or interest in the property shall ensure that the document through which such right, title or interest in the property are acquired by him, is duly registered and stamped.

(The author is senior partner, ZEUS Law, a corporate commercial law firm. One of its areas of specialisation is real estate advisory and litigation practice. If you have any queries, email us at htestates@hindustantimes.com or ht@zeus.firm.in)