

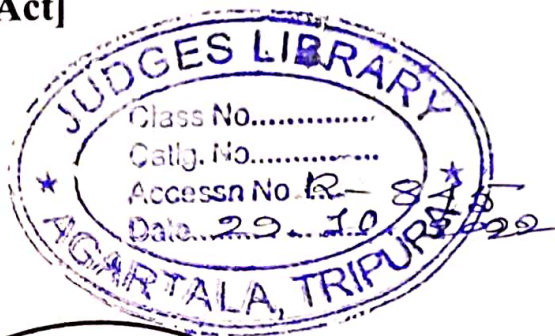
The Registration Act, 1908

[Act 16 of 1908]

with
Case Law



**[Important Note: This publication does not contain
State Amendments to the Act]**



**With
complete
legislative
history**

EBC

Book No. 13

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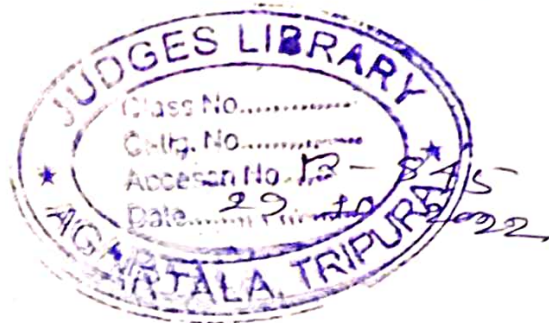
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The Registration Act, 1908

[Act 16 of 1908]¹

[18th December, 1908]

*An Act to consolidate the enactments relating to
the Registration of Documents*

Whereas it is expedient to consolidate the enactments relating to the registration of documents; It is hereby enacted as follows:

Statement of Objects and Reasons.—This is a pure consolidating Bill. The provisions relating to the registration of documents are now scattered about in seven enactments. The object of the present Bill is to collect these provisions and to incorporate them in one Act. This will make the law more easily ascertainable. It will further clear the Statute book of three entire Acts and will enable two more Acts to be entirely removed from it on the coming into force of the Code of Civil Procedure, 1908, and of the Indian Limitation Bill, now before Council.

The fact that the General Clauses Act, 1887, will apply to the Bill when passed has rendered it unnecessary to relation some provisions of the present Acts. The opportunity has been taken to incorporate alterations of a formal character intended merely to improve and simplify the language of the existing Act. The numbering of the sections of the Act of 1877, has been preserved.

It has been found that the mere process of consolidation might result in the law being changed in some respects. To avoid this some few amendments appear to be necessary

CASE LAW ► Object.—Object of Registration Act, 1908, is designed to guard against fraud by obtaining a contemporaneous publication and an unimpeachable record of each document, *Rajni Tandon v. Dulal Ranjan Ghosh Dastidar*, (2009) 14 SCC 782 : (2009) 5 SCC (Civ) 520.

PART I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the
2[* * *] Registration Act, 1908.

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1. For Statement of Objects and Reasons, see *Gazette of India*, 1908, Pt. V, p. 325; for Report of Select Committee, see *ibid*, 1908, Pt. V, p. 387; and for Proceedings in Council, see *ibid*, 1908 Pt. VI, pp. 148, 154 and 182.

This Act has been extended to Berar by Berar Laws Act, 1941 (4 of 1941); to Dadra and Nagar Haveli by Reg. 6 of 1963, S. 2 and Sch.; to Goa, Daman and Diu by Reg. 11 of 1963, S. 3 and Sch.; to Laccadaive, Minicoy and Amindivi Islands by Reg. 8 of 1965, S. 3 and Sch. and to Pondicherry by Act 26 of 1968, S. 3 and Sch.

It has been declared to be in force in Panth Piploda by the Panth Piploda Laws Regulation, 1929 (1 of 1929), S. 2; in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), S. 3 and Sch. in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), S. 3 and Sch.

It has been applied with modifications to certain taluks of the East Godavari Agency, see Notification No. F.128/29, dated the 29th April, 1929, *Gazette of India*, Pt. I, p. 662.

It has been amended in its application to Andhra Pradesh by A.P. Act 5 of 1960; to Bengal by Ben. Act 5 of 1952 and W.B. Acts 29 of 1960, 31 of 1951 and 6 of 1956; to Bihar by Bihar Acts 14 of 1947 and 24 of 1952; to Bombay by Bombay Acts 5 of 1929, 17 of 1930, 18 of 1933, 24 of 1938, 14 of 1939, 10 of 1942 and 6 of 1960 and Maharashtra Act 19 of 1960; to C.P. by C.P. Act 1 of 1937 and C.P. and Berar Act 59 of 1949; to Kerala by Kerala Acts 2 of 1959 and 7 of 1968; to Madras by Madras Acts 3 of 1936 and 17 of 1952; to Orissa by Orissa Act 3 of 1938 and to Punjab by Punjab Acts 8 of 1941 and 19 of 1961.

2. The word "Indian" omitted by Act 45 of 1969, S. 2.

³[(2) It extends to the whole of India ⁴[* * *]:

Provided that the State Government may exclude any districts or tracts of country from its operation.]

(3) It shall come into force on the first day of January, 1909.

2. Definitions.—In this Act, unless there is anything repugnant in the subject of context,—

- (1) “addition” means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of ⁵[an Indian], ⁶[* * *] his father’s name, or where he is usually described as the son of his mother, then his mother’s name;
- (2) “book” includes a portion of a book and also any number of sheets connected together with a view of forming a book or portion of a book;
- (3) “district” and “sub-district” respectively mean a district and sub-district formed under this Act;
- (4) “District Court” includes the High Court in its ordinary original civil jurisdiction;
- (5) “endorsement” and “endorsed” include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act;
- (6) “immovable property” includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass;

CASE LAW ► Immovable property.—The definition of immovable property in Registration Act lends assurance to treating Shebait’s hereditary office as immovable property because the definition includes hereditary allowances. It is, therefore, safe to conclude that the hereditary office of Shebait which would be enjoyed by the person by turn would be immovable property. The gift of such immovable property must of course be by registered instrument, *Ram Rattan v. Bajrang Lal*, (1978) 3 SCC 236.

► Ownership of the land.—Ownership of subsoil/mineral rights/wealth, held, follows ownership of the land, unless owner of land is deprived of the same by some valid process of law, *Thressiamma Jacob v. Deptt. of Mining & Geology*, (2013) 9 SCC 725.

⁷[(6-A) “India” means the territory of India excluding the State of Jammu and Kashmir⁸;]

3. Subs. by Act 3 of 1951, S. 3 and Sch..

4. The words “except the State of Jammu and Kashmir” omitted by Act 34 of 2019, Ss. 95, 96 & Sch. V (w.e.f. 31-10-2019).

5. Subs. by the A.O. 1950, for “a Native of India”.

6. The words “his caste (if any) and” omitted by Act 17 of 1956, S. 2.

7. Ins. by Act 3 of 1951, S. 3 and Sch.

8. Now made applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh. [Vide S.O. 3912(E), dt. 30-10-2019 (w.e.f. 31-10-2019)]

- (7) "lease" includes a counterpart kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease;
- (8) "minor" means a person who, according to the personal law to which he is subject, has not attained majority;
- (9) "movable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immovable property; and
- (10) "representative" includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot.
- (11) ⁹[* * *]

PART II

OF THE REGISTRATION ESTABLISHMENT

3. Inspector General of Registration.—(1) The State Government shall appoint an officer to be the Inspector General of Registration for the territories subject to such Government:

Provided that the State Government may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers, and within such local limits, as the State Government appoints in this behalf.

(2) Any Inspector General may hold simultaneously any other office under the Government.

4. Branch Inspector General of Sindh.—¹⁰[*Repealed*]

5. Districts and sub-districts.—(1) For the purposes of this Act, the State Government shall form districts and sub-districts, and shall prescribe, and may alter, the limits of such districts and sub-districts.

(2) The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the *Official Gazette*.

(3) Every such alteration shall take effect on such day after the date of the notification as in therein mentioned.

6. Registrars and Sub-Registrars.—The State Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the

9. Cl. (11) *ins.* by the A.O. 1950 and *omitted* by Act 3 of 1951, S. 3 and Sch. Prior to omission it read as: "States" means all the territories for the time being comprised within Part A States and Part C State.

10. *Repealed* by the Government of India (Adaptation of Indian Laws) Order, 1937. Prior to Repeal it read as:

"4. *Branch Inspector General of Sindh.*—(1) The Governor of Bombay in Council may also, with the previous consent of the Governor General in Council, appoint an officer to be Branch Inspector General of Sindh, who shall have all the powers of an Inspector General under this Act other than the power to frame rules hereinafter conferred.

(2) The Branch Inspector General of Sindli may hold simultaneously any other office under Government."

several districts, and to be Sub-Registrars of the several sub-districts, formed as aforesaid, respectively.

¹¹[* * *]

7. Offices of Registrar and Sub-Registrar.—(1) The State Government shall establish in every district an office to be styled the office of the Registrar and in every sub-district an office or offices to be styled the office of the Sub-Registrar or the offices of the Joint Sub-Registrars.

(2) The State Government may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar, and may authorize any Sub-Registrar whose office has been so amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate:

Provided that no such authorization shall enable a Sub-Registrar to hear an appeal against an order passed by himself under this Act.

8. Inspectors of registration offices.—(1) The State Government may also appoint officers, to be called Inspectors of registration offices, and may prescribe the duties of such officers.

(2) Every such Inspector shall be subordinate to the Inspector General.

9. Military cantonments may be declared sub-districts or districts.—¹²[*Repealed*]

10. Absence of Registrar or vacancy in his office.—(1) When any Registrar, other than the Registrar of a district including a Presidency-town, is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, shall be the Registrar during such absence or until the State Government fills up the vacancy.

(2) When the Registrar of a district including a Presidency-town is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector General appoints in this behalf shall be the Registrar during such absence, or until the State Government fills up the vacancy.

11. Absence of Registrar on duty in his district.—When any Registrar is absent from his office on duty in his district, he may appoint any Sub-Registrar

11. The proviso *added* by Act 4 of 1914, S. 2 and Sch., Pt. 1 and *omitted* by the A.O. 1937. Prior to repeal it read as:

"Provided that the Local Government may delegate, subject to such restrictions and conditions as it thinks fit, to the Inspector General of registration the power of appointing Sub-Registrars."

12. *Repealed* by the Repealing and Amending Act, 1927 (10 of 1927), Section 3 and Schedule II. Prior to repeal it read as:

"9. *Military cantonments may be declared sub-districts or districts.*—Every military cantonments may (if the Local Government so directs) be, for the purposes of this Act, a sub-district or a district, and the cantonment Magistrate shall be the Sub-Registrar or the Registrar of such sub-district or district, as the case may be."

or other person in his district to perform, during such absence, all the duties of a Registrar except those mentioned in Sections 68 and 72.

12. Absence of Sub-Registrar or vacancy in his office.—When any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the district appoints in this behalf shall be Sub-Registrar during such absence, or until ¹³[the vacancy is filled up].

13. Report to State Government of appointments under Sections 10, 11 and 12.—(1) ¹⁴[* * *] All appointments made under Section 10, Section 11 or Section 12 shall be reported to the State Government by the Inspector General.

(2) Such report shall be either special or general, as the State Government directs.

¹⁵[* * *]

14. Establishments of registering officers.—¹⁶[* * *]

(2) The State Government may allow proper establishments for the several offices under this Act.

15. Seal of registering officers.—The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the State Government directs:

“The seal of the Registrar (or of the Sub-Registrar) of.”

16. Register-books and fire-proof boxes.—(1) The State Government shall provide for the office of every registering officer the books necessary for the purposes of this Act.

(2) The books so provided shall contain the forms from time to time prescribed by the Inspector General, with the sanction of the State Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

(3) The State Government shall supply the office of every Registrar with a fire-proof box, and shall in such district make suitable provision for the safe custody of the records connected with the registration of documents in such district.

¹⁷[**16-A. Keeping of books in computer floppies, diskettes, etc.**—(1) Notwithstanding anything contained in Section 16, the books provided under

13. Subs. by Act 4 of 1914, S. 2. and Sch., Pt. I, for “the Local Government fills up the vacancy”.

14. The words and figures “All appointments made by the Inspector General under Section 6 and” ins. by Act 4 of 1914, S. 2 and Sch., Pt. I, omitted by the A.O. 1937.

15. Sub-section (3) omitted by the A.O. 1937. Prior to omission it read as:

“(3) The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.”

16. Sub-section (1) omitted by the A.O. 1937. Prior to omission it read as:

“14. Establishments of registering officers.—(1) Subject to the approval of the Governor General in Council, the Local Government may assign such salaries and such Government deems proper to the registering officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.”

17. Ins. by Act 48 of 2001, S. 2.



sub-section (1) of that section may also be kept in computer floppies or diskettes or in any other electronic form in the manner and subject to the safeguards as may be prescribed by the Inspector General with the sanction of the State Government.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, a copy or extracts from the books kept under sub-section (1) given by the registering officer under his hand and seal shall be deemed to be a copy given under Section 57 for the purposes of sub-section (5) of that section.]

PART III OF REGISTRABLE DOCUMENTS

17. Documents of which registration is compulsory.—(1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been examined on or after the date on which, Act XVI of 1864, or the Indian Registration Act, 1866 (20 of 1866), or the Indian Registration Act, 1871 (8 of 1871), or the Indian Registration Act, 1877 (3 of 1877), or this Act came or comes into force, namely—

- (a) instruments of gift of immovable property;
- (b) 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;
- (c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and
- (d) lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent;
- ¹⁸[(e) non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates 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:]

Provided that the State Government may, by order published in the *Official Gazette*, exempt, from the operation of this sub-section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

¹⁹[(1-A) The documents containing contracts to transfer for consideration, any immovable property for the purpose of Section 53-A of the Transfer of Property Act, 1882 (4 of 1882), shall be registered if they have been executed on or after the commencement of the Registration and Other Related Laws (Amendment) Act,

18. Added by Act 21 of 1929, S. 10.

19. Ins. by Act 48 of 2001, S. 3.

2001 and, if such documents are not registered on or after such commencement, then, they shall have no effect for the purposes of the said Section 53-A.]

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to—

- (i) any composition-deed; or
- (ii) any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immovable property; or
- (iii) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or
- (iv) any endorsement upon or transfer of any debenture issued by any such Company; or
- (v) any document ²⁰[other than the documents specified in sub-section (1-A)] not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immovable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest; or
- (vi) any decree or order of a Court ²¹[except a decree or order expressed to be made on a compromise and comprising immovable property other than that which is the subject-matter of the suit or proceeding]; or
- (vii) any grant of immovable property by the Government; or
- (viii) any instrument of partition made by a Revenue Officer; or
- (ix) any order granting a loan or instrument of collateral security granted under the Land Improvement Act, 1871 (26 of 1871), or the Land Improvement Loans Act, 1883 (19 of 1883); or
- (x) any order granting a loan under the Agriculturists Loans Act, 1884 (12 of 1884), or instrument for securing the repayment of a loan made under that Act; or
- ²²[(x-a) any order made under the Charitable Endowments Act, 1890 (6 of 1890), vesting any property in a Treasurer of Charitable Endowments of divesting any such Treasurer of any property; or]
- (xi) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt

20. *Ins.* by Act 48 of 2001, S. 3.

21. *Subs.* by Act 21 of 1929, S. 10, for "and any award".

22. *Ins.* by Act 39 of 1948, S. 2.

- for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage; or
- (xii) any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue Officer.

²³[*Explanation*.—A document purporting or operating to effect a contract for the sale of immovable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase money.]

(3) Authorities to adopt a son, executed after the 1st day of January, 1872, and not conferred by a will, shall also be registered.

CASE LAW ► Applicability.—Section 17(1)(b) applies only to documents that create rights in praesenti or in future. It does not apply to documents that merely record or proceed on the basis of any right created or extinguished in the past, *N. Khosla v. Rajlakshmi*, (2006) 3 SCC 605.

Second part of Section 17(2)(vi) which is an exception to the exception carved out by Section 17(2)(vi), and hence to which said second part, Sections 17(1)(b)&(c) normally apply. Sections 17(1)(b)&(c) are not applicable to compromise decree comprising immovable property other than that which is subject-matter of the suit, when compromise in question pertains only to pre-existing rights i.e. no new right, title or interest in immovable property is created vide the compromise in question. Family settlement/compromise, or, settlement/compromise in respect of family property are exempt from compulsory registration so long as they pertain to pre-existing rights of the parties and no new right, title or interest is created vide such settlement or compromise. Principles explained regarding the same, *Ripudaman Singh v. Tikka Maheshwar Chand*, (2021) 7 SCC 446.

► **Purpose of registration.**—The real purpose of registration is to secure that every person dealing with the property, where such document requires registration, may rely with confidence upon statements contained in the register as a full and complete account of all transactions by which title may be affected, *Lachhman Dass v. Ram Lal*, (1989) 3 SCC 99.

► **Registration is mandatory.**—Where an undertaking is given before court that certain immovable property could be proceeded against in the event of judgment-debtor failing to pay the decretal amount within the stipulated time, the property is not required to be registered, *Western Press (P) Ltd. v. Custodian*, (2001) 10 SCC 703.

► **Non-registration.**—Registration of a subsequent supplementary documents relating to the conveyance of the same interest between the same parties, can cure defect of non-registration of an earlier document in respect of the conveyance of the interest in question, *Official Trustee of West Bengal v. Stephen Court Ltd.*, (2006) 13 SCC 401.

► **Exemption from registration.**—Exemption from registration provided in clause (vi) of Section 17(2) does not cover an award. Exception therein is confined to decrees or orders of a court, *Som Dev v. Rati Ram*, (2006) 10 SCC 788.

23. *Ins. by Act 2 of 1927, S. 2.*

Partition of joint family property by way of family settlement does not require registration, *Syndicate Bank v. Estate Officer & Manager, APIIC Ltd.*, (2007) 8 SCC 361.

Property sold by public auction and sale certificate issued by court, as per Section 17(2)(xii), does not require registration, *B. Arvind Kumar v. Govt. of India*, (2007) 5 SCC 745.

If a right is created or extinguished by a compromise decree, registration of such decree is compulsory if the compromise decree comprises immovable property which was not the subject-matter of the suit or proceeding. Clause (vi) of Section 17(2) is an exception to exception. If latter part of clause (vi) applies, the earlier part does not apply, *K. Raghunandan v. Ali Hussain Sabir*, (2008) 13 SCC 102.

Housing Society members required by Development Authority to execute tripartite deed to land-cum-superstructure by way of sub-lease to them, such deed, nonetheless chargeable with duty and registerable, *NOIDA v. Army Welfare Housing Organization*, (2010) 9 SCC 354 : (2010) 3 SCC (Civ) 768.

► **Partition/Family Arrangement/Settlement.**—Even unregistered document of family settlement would operate as estoppel against parties to such settlement. It can be used as corroborative evidence as explaining arrangement made thereunder and conduct of parties. If partition of joint family properties took place by oral family settlement, unregistered document containing signature of all members, containing list of properties partitioned, can be used as corroborative evidence, *Thulasidhara v. Narayanappa*, (2019) 6 SCC 409.

► **Unregistered draft lease.**—Unregistered draft lease agreement cannot create a valid lease for a renewed term and is not admissible in evidence to prove the lease transaction, *Satish Chand Makhan v. Govardhan Das Byas*, (1984) 1 SCC 369.

► **Non-registration of lease.**—Duly notarized document cannot be said to be a fake document in absence of any other material. Non-registration of lease however may affect legal rights of the parties inter se, *Moumita Poddar v. Indian Oil Corpn. Ltd.*, (2010) 9 SCC 291.

► **Instrument of gift.**—Merely because a gift is reduced to writing by a Mohammedan instead of it having been made orally, such writing does not become a formal document or instrument of gift. When a gift could be made by a Mohammedan orally, its nature and character is not changed because of it having been made by a written document. What is important for a valid gift under Mohammedan Law is that three essential requisites must be fulfilled. The form is immaterial. If all the three essential requisites are satisfied constituting a valid gift, the transaction of gift would not be rendered invalid because it has been written on a plain piece of paper.

The distinction that if a written deed of gift recites the factum of prior gift then such deed is not required to be registered but when the writing is contemporaneous with the making of the gift, it must be registered, is inappropriate and does not seem to be in conformity with the rule of gifts in Mohammedan Law. In other words, it is not the requirement that in all cases where the gift deed is contemporaneous to the making of the gift then such deed must be registered under Section 17 of the Registration Act. Each case would depend on its own facts, *Hafeeza Bibi v. Sk. Farid*, (2011) 5 SCC 654 : (2011) 3 SCC (Civ) 103.

► **Gift deed.**—It is no doubt true that the gift deed was an unregistered instrument and no title could pass on the basis of the same under Section 123 of the Transfer of Property Act. However, when the document is in the nature of a dedication of immovable property to God, the same does not require registration as it constitutes a religious trust and is exempt from registration, *Sainath Mandir Trust v. Vijaya*, (2011) 1 SCC 623 : (2011) 1 SCC (Civ) 301.

► **Gift of immovable property.**—Oral gift of immovable property is not contemplated, *Sudish Prasad v. Babui Jonhia*, (2013) 9 SCC 181.

► **Arbitration clause.**—Arbitration agreement is not compulsorily registerable under Registration Act, 1908. Hence, arbitration clause in compulsorily registerable document but which is not registered can be acted upon and enforced, as if it were an independent agreement, but solely for the purpose of dispute resolution. However, if said document is not properly stamped, court can act upon said document or enforce arbitration clause contained therein only after deficit duty and penalty is paid and said defect is cured, *SMS Tea Estates (P) Ltd. v. Chandmari Tea Co. (P) Ltd.*, (2011) 14 SCC 66 : (2012) 4 SCC (Civ) 777.

► **Deed of adoption.**—Deed of adoption need not necessarily be registered, *Param Pal Singh v. National Insurance Co.*, (2013) 3 SCC 409.

► **Arbitration award.**—Where subject matter of arbitration was non-payment of loan and not any dispute regarding immovable property, but in view of admission by both parties that one of them borrowed amount exceeding Rs 100 from, and delivered possession of his land to, other party due to former's inability to repay, arbitrator passed award declaring lender to have become absolute owner of said land, held, such award was compulsorily registrable. Therefore, if not registered, the same could neither be acted upon nor could a decree be passed in terms thereof, *Ramesh Kumar v. Furu Ram*, (2011) 8 SCC 613 : (2011) 4 SCC (Civ) 303.

► **Power of attorney.**—A power of attorney has to be strictly construed. In order to agree to sell or effect a sale by a power of attorney, the power should also expressly authorise the power to agent to execute the sale agreement/sale deed i.e. (a) to present the document before the Registrar; and (b) to admit execution of the document before the Registrar. From the date the power of attorney is executed by the principal in favour of the agent and by virtue of the terms, the agent derives a right to use his name and all acts, deeds and things done by him are subject to the limitations contained in the said deed. The power of attorney holder executes a deed of conveyance in exercise of the power granted under it and conveys title on behalf of the grantor, *Church of Christ Charitable Trust & Educational Charitable Society v. Ponniannan Educational Trust*, (2012) 8 SCC 706 : (2012) 4 SCC (Civ) 612.

► **Non-testamentary instrument.**—Award made by private arbitrator which on application made under Section 14 made rule of the court under Section 17 is a 'non-testamentary instrument' within Section 17(1)(b) of Registration Act, 1908, *Sardar Singh v. Krishna Devi*, (1994) 4 SCC 18.

► **Registered sale deed.**—A registered sale deed alone conveys valid title. Sale agreement does not create any valid title, *Meghmala v. G. Narasimha Reddy*, (2010) 8 SCC 383 : (2010) 3 SCC (Cri) 878 : (2010) 3 SCC (Civ) 368.

► **Non-registration of 1934 Constitution of Malankara Orthodox Syrian Church.**—The 1934 Constitution does not create, declare, assign, limit or extinguish, whether in present or future, any right, title or interest, whether vested or contingent, in Malankara Orthodox Syrian Church properties. Thus as such, held, it is not required to be registered. Moreover, Udampady itself is not a document of creation of trust. It related to the management only. Thus, by its registration of Udampady no legal superior right is acquired to prevail over the 1934 Constitution. Further, the question not having been raised at the time of authoritative pronouncement (viz. in the 1958 and the 1995 cases), not permitted to be raised now, *K.S Varghese v. St. Peter's & St. Paul's Syrian Orthodox Church*, (2017) 15 SCC 333.

► **Compulsory registration.**—Document effecting relinquishment of right in respect of immovable property requires compulsory registration, *Yellapu Uma Maheswari v. Buddha Jagadheeswararao*, (2015) 16 SCC 787 : (2016) 3 SCC (Civ) 767.

► **Unregistered and unstamped partition deed.**—Deed of relinquishment of right in respect of immovable property is not admissible in evidence for primary purpose of division of joint properties by metes and bounds. But it can be relied upon for collateral purposes of severance of title and nature of possession of various shares only if it is impounded by paying stamp duty together with penalty, *Yellapu Uma Maheswari v. Buddha Jagadheeswararao*, (2015) 16 SCC 787 : (2016) 3 SCC (Civ) 767.

► **Requirement of registration.**—Document containing contract to transfer right, title or interest in immovable property for consideration, for purposes of Section 53-A of TP Act to protect possession of transferee over property, if not registered but exhibited, it will bear an endorsement that it is admissible only as evidence of agreement to sell in suit for specific performance under Specific Relief Act and shall not have any effect for purposes of Section 53-A of TP Act. Genuineness, validity and binding nature of document or whether it is hit by any provisions of TP Act or Stamp Act, will have to be adjudicated at appropriate stage after parties adduce oral and documentary evidence, *Ameer Minhaj v. Dierdre Elizabeth (Wright) Issar*, (2018) 7 SCC 639.

► **Extinguishment deed.**—Extinguishment deed, once registered cannot be cancelled by Registering Officer, even if any irregularity in procedure occurs. Provisions of 1908 Act do not mandate presence of both parties before Registering Officer at the time of registration. Unilateral presentation of document, even if an irregularity of procedure, no deceitful or fraudulent act to cause loss or harm to the other party can be inferred therefrom per se. Whether the same was done deceitfully to cause loss and harm to the other party to the deed, is a question of fact which must be pleaded and proved by the party making such allegation. That fact cannot be presumed. Party aggrieved by such registration of document is free to challenge its validity before the civil court, *Satya Pal Anand v. State of M.P.*, (2016) 10 SCC 767.

► **Writing/Instrument qua past settlement.**—A writing which merely recites that there has *in time past* been a partition, is not a declaration of will, but a mere statement of fact, and it does not require registration. Also, a mere list of properties allotted at a partition is not an instrument of partition and does not require registration. Further, where the parties set up competing titles and the differences are resolved by the compromise, there is no question of one deriving title from the other, and therefore the arrangement does not fall within the mischief of Section 17 r/w Section 49 as no interest in property is created or declared by the document for the first time, *Roshan Singh v. Zile Singh*, (2018) 14 SCC 814.

► **Registration of family settlement/partition.**—Registration is necessary only if terms of family arrangement/settlement are reduced into writing, and the document itself creates or extinguishes any rights in immovable properties i.e. the terms and recitals of family arrangement are made *under* the document *itself*. However, a mere memorandum prepared after the family arrangement had already been made either for the purpose of the record or for information, is not compulsorily registrable, *Sita Ram Bhama v. Ramvatar Bhama*, (2018) 15 SCC 130.

► **Registration of compromise decree.**—Compromise decree comprising immovable property which is the subject-matter of the suit or proceeding in question, held, does not require registration. It is only a compromise decree comprising immovable property other than that which is the subject-matter of suit or proceeding in question which requires registration, *Gurcharan Singh v. Angrez Kaur*, (2020) 10 SCC 250.

18. Documents of which registration is optional.—Any of the following documents may be registered under this Act, namely—

- (a) instruments (other than instruments of gift and wills) 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 a value less than one hundred rupees, to or in immovable property;
- (b) instruments, acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest;
- (c) leases of immovable property for any term not exceeding one year, and leases exempted under Section 17;
- ²⁴[(cc) instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immovable property;]
- (d) instruments (other than wills) which purport or operate to create declare, assign, limit or extinguish any right, title or interest to or in movable property;
- (e) wills; and
- (f) all other documents not required by Section 17 to be registered.

19. Documents in language not understood by registering officer.—If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

20. Documents containing interlineations, blanks, erasures or alterations.—(1) The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration.

(2) If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

CASE LAW ► Attestation.—Attestation of sale deed is imperative. Attestation and execution are different acts, *D.R. Rathna Murthy v. Ramappa*, (2011) 1 SCC 158 : (2011) 1 SCC (Civ) 63.

21. Description of property and maps or plans.—(1) No non-testamentary document relating to immovable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(2) Houses in towns shall be described as situate on the north or other side of the street or road (which should be specified) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered.

(3) Other houses and lands shall be described by their names, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(4) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it is accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

22. Description of houses and land by reference to Government maps or surveys.—(1) Where it is, in the opinion of the State Government, practicable to describe houses, not being houses in towns, and lands by reference to a Government map or survey, the State Government may, by rule made under this Act, require that such houses and lands as aforesaid shall, for the purposes of Section 21, be so described.

(2) Save as otherwise provided by any rule made under sub-section (1), failure to comply with the provisions of Section 21, sub-section (2) or sub-section (3), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify that property.

PART IV

OF THE TIME OF PRESENTATION

23. Time for presenting documents.—Subject to the provisions contained in Sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made or, where it is appealable, within four months from the day on which it becomes final.

²⁵[**23-A. Re-registration of certain documents.**—Notwithstanding anything to the contrary contained in this Act, if in any case a document requiring registration has been accepted for registration by a Registrar or Sub-Registrar from a person not duly empowered to present the same, and has been registered, any person claiming under such document may, within four months from his first becoming aware that the registration of such document is invalid, present such document or cause the same to be presented, in accordance with the provisions of Part VI for re-registration in the office of the Registrar of the district in which the document

was originally registered; and upon the Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the same, he shall proceed to the re-registration of the document as if it had not been previously registered, and as if such presentation for registration was a presentation for registration made within the time allowed therefor under Part IV, and all the provisions of the Act, as to registration of documents, shall apply to such re-registration; and such document, if duly re-registered in accordance with the provisions of this section, shall be deemed to have been duly registered for all purposes from the date of its original registration:

Provided that, within three months from the twelfth day of September, 1917, any person claiming under a document to which this section applies may present the same or cause the same to be presented for re-registration in accordance with this section, whatever may have been the time when he first became aware that the registration of the document was invalid.]

24. Documents executed by several persons at different times.—Where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

25. Provision where delay in presentation is unavoidable.—(1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in ²⁶[India] is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

26. Documents executed out of India.—When a document purporting to have been executed by all or any of the parties out of ²⁷[India] is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied—

- (a) that the instrument was so executed, and
- (b) that it has been presented for registration within four months after its arrival in ²⁸[India],

may, on payment of the proper registration fee, accept such document for registration.

27. Wills may be presented or deposited at any time.—A will may at any time be presented for registration or deposited in manner hereinafter provided.

26. Subs. by Act 3 of 1951, S. 3 and Sch. for "the States".

27. Subs. by Act 3 of 1951, S. 3 and Sch. for "the States".

28. Subs. by Act 3 of 1951, S. 3 and Sch. for "the States".

PART V
OF THE PLACE OF REGISTRATION

28. Place for registering documents relating to land.—Save as in this Part otherwise provided, every document mentioned in Section 17, sub-section (1), clauses (a), (b), (c) ²⁹[(d) and (e), Section 17, sub-section (2), in so far as such document affects immovable property,] and Section 18, clauses (a), (b) ³⁰[(c) and (cc)], shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.

29. Place for registering other documents.—(1) Every document ³¹[not being a document referred to in Section 28, or a copy of a decree or order], may be presented for registration either in the office of the Sub-Registrar in whose sub-district the document was executed, or in the office of any other Sub-Registrar under the State Government at which all the persons executing and claiming under the document desire the same to be registered.

(2) A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose sub-district the original decree or order was made, or, where the decree or order does not affect immovable property, in the office of any other Sub-Registrar under the State Government at which all the persons claiming under the decree or order desire the copy to be registered.

30. Registration by Registrars in certain cases.—(1) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

(2) ³²[* * *]

31. Registration or acceptance for deposit at private residence.—In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit:

Provided that such officer may on special cause being shown attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

CASE LAW ► Registration of conveyance deed.—Presence of party for registration of conveyance deed is not mandatory. Holding a sale deed invalid on ground that purchaser was not present at the time of registration of sale deed, not sustainable, *H.P. Puttaswamy v. Thimmamma*, (2020) 13 SCC 125.

29. Subs. by Act 33 of 1940, S. 3 for "and (d)".

30. Subs. by Act 33 of 1940, S. 3, for "and (c)".

31. Subs. by Act 32 of 1940, S. 3 and Sch. II, for "other than a document referred to in S. 28, and a copy of a decree or order".

32. Sub-section (2) omitted by Act 48 of 2001, S. 4. Prior to omission it read as:

"(2) The Registrar of a district including a presidency-town and the Registrar of the Lahore District may receive and register any documents referred to in Section 28 without regard to the situation in any part of British India of the property to which the documents relates."

PART VI

OF PRESENTING DOCUMENTS FOR REGISTRATION

32. Persons to present documents for registration.—Except in the cases mentioned in ³³[Sections 31, 88 and 89], every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office,—

- (a) by some person executing or claiming under the same, or in the case of a copy of a decree or order, claiming under the decree or order, or
- (b) by the representative or assign of such person, or
- (c) by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

CASE LAW ▶ Scope.—The scope of Sections 32(b) and (c) may to an extent overlap one another. However, the same is not relevant for determination of issue in the instant case. Insofar as Section 32(c) is concerned, the agents, representatives or assigns of the persons referred to in Section 33(c) provisos (i), (ii) and (iii) can present the said document for registration only if they are duly authorised by power of attorney executed and authenticated in manner thereafter mentioned [meaning thereby the manner following Section 32(c)], *Rajni Tandon v. Dulal Ranjan Ghosh Dastidar*, (2009) 14 SCC 782 : (2009) 5 SCC (Civ) 520.

▶ **Interpretation/construction.**—Expression “executed and authenticated in manner hereinafter mentioned” would mean the procedure specified in Section 33, *Rajni Tandon v. Dulal Ranjan Ghosh Dastidar*, (2009) 14 SCC 782 : (2009) 5 SCC (Civ) 520.

Expression “person executing” can only refer to the person who actually signs or marks the document in token of execution, whether for himself or on behalf of some other person and may include either the principal or his agent, *Rajni Tandon v. Dulal Ranjan Ghosh Dastidar*, (2009) 14 SCC 782 : (2009) 5 SCC (Civ) 520.

▶ **Powers of attorney.**—Registered document has a lot of sanctity attached to it and this sanctity cannot be allowed to be lost without following the proper procedure. Merely by filing complaints with police, deeds, documents and powers of attorney cannot be revoked, *Shanti Budhiya Vesta Patel v. Nirmala Jayprakash Tiwari*, (2010) 5 SCC 104 : (2010) 2 SCC (Civ) 299.

▶ **Recall of registration.**—Registration of document by one party to a deed alone, would not amount to a fraudulent action per se, *Satya Pal Anand v. State of M.P.*, (2016) 10 SCC 767.

Competent authority therefor regarding Recall of registration/Document if was properly presented for registration, reopening question of, after registration/Cancellation of registration of document after its registration, is civil court alone, and none of the authorities/officers under 1908 Act. Said power, held, does not fall within scope of power of Registering Officer, including IG (Registration) or any other authority under 1908 Act, in absence of any express provisions to the contrary in the Central Act or in legislation/statutory rules of State concerned (State of M.P. in this case) under Section 69 or in any circular issued by competent authority of that State. The role of the Sub-Registrar (Registration) stands discharged, once the document is registered. Power to cancel the registration is a substantive matter. Remedy of appeal provided under the 1908 Act, in Pt. XII, in particular Section 72, is limited to the inaction or refusal by the Registering Officer

33. Subs. by Act 39 of 1948, S. 3, for “Section 31 and Section 89”.

to register a document. The power conferred on the Registrar by virtue of Section 68 cannot be invoked to cancel the registration of documents already registered, *Satya Pal Anand v. State of M.P.*, (2016) 10 SCC 767.

Some irregularity in the procedure committed during the registration process, held, would not amount to a fraudulent action per se. Whether the irregularity was done deceitfully to cause loss and harm to the other party to the deed, is a question of fact which must be pleaded and proved by the party making such allegation, *Satya Pal Anand v. State of M.P.*, (2016) 10 SCC 767.

³⁴[**32-A. Compulsory affixing of photograph, etc.**—Every person presenting any document at the proper registration office under Section 32 shall affix his passport size photograph and fingerprints to the document:

Provided that where such document relates to the transfer of ownership of immovable property, the passport size photograph and fingerprints of each buyer and seller of such property mentioned in the document shall also be affixed to the document.]

33. Power-of-attorney recognizable for purposes of Section 32.—(1) For the purposes of Section 32, the following powers-of-attorney shall alone be recognized, namely—

- (a) if the principal at the time of executing the power-of-attorney resides in any part of ³⁵[India] in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides;
- (b) if the principal at the time aforesaid ³⁶[resides in any part of India in which this Act is not in force], a power-of-attorney executed before and authenticated by any Magistrate;
- (c) if the principal at the time aforesaid does not reside in ³⁷[India], a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate ³⁸[Indian] Consul or Vice-Consul, or representative ³⁹[* * *] of the Central Government:

Provided that the following persons shall not be required to attend at any registration-office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this Section, namely—

- (i) persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend;
- (ii) persons who are in jail under civil or criminal process; and
- (iii) persons exempt by law from personal appearance in the Court.

⁴⁰[*Explanation.*—In this sub-section, “India” means India, as defined in clause (28) of Section 3 of the General Clauses Act, 1897 (10 of 1897)].

34. Ins. by Act 48 of 2001, S. 5.

35. Subs. by Act 3 of 1951, S. 3 and Sch., for “the States”.

36. Subs. by Act 3 of 1951, S. 3 and Sch., for “resides in any other part of the States”.

37. Subs. by Act 3 of 1951, S. 3 and Sch., for “the States”.

38. Subs. by the A.O. 1950, for “British”.

39. The words “of His Majesty or” omitted by the A.O. 1950.

40. Ins. by Act 3 of 1951, S. 3 and Sch.

(2) In the case of every such person the Registrar or Sub-Registrar or Magistrate, as the case may be, if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

(3) To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

(4) Any power-of-attorney mentioned in this section may be proved by the production of it without further proof when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

CASE LAW ▶ Interpretation/construction.—Implication of expression “for the purposes of Section 32, the following power of attorney shall alone be recognised” is that Section 33 would be attracted where a document is presented by such holder of “powers of attorney” in Section 32(c) who holds the power of attorney of a person mentioned in Section 32(a) (i.e. the persons executing or signing the documents), *Rajni Tandon v. Dulal Ranjan Ghosh Dastidar*, (2009) 14 SCC 782 : (2009) 5 SCC (Civ) 520.

34. Enquiry before registration by registering officer.—(1) Subject to the provisions contained in this Part and in Sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under Sections 23, 24, 25 and 26:

Provided that, if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, in addition to the fine, if any, payable under Section 25, the document may be registered.

(2) Appearances under sub-section (1) may be simultaneous or at different times.

(3) The registering officer shall thereupon—

- (a) enquire whether or not such document was executed by the persons by whom it purports to have been executed;
- (b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document; and
- (c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

(4) Any application for a direction under the proviso to sub-section (1) may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

(5) Nothing in this section applies to copies of decrees or orders.

CASE LAW ► Witnesses to registration.—Witnesses to registration of a document, held, need not necessarily be witnesses/attesting witnesses to the execution of document being registered, *Om Prakash v. Shanti Devi*, (2015) 4 SCC 601 : (2015) 2 SCC (Civ) 646.

35. Procedure on admission and denial of execution respectively.—(1) (a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document, or

(b) if in the case of any person appearing by a representative, assign or agent, such representative, assign or agent admits the execution, or

(c) if the person executing the document is dead, and his representative or assign appears before the registering officer and admits the execution, the registering officer shall register the document as directed in Sections 58 to 61, inclusive.

(2) The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

(3)(a) If any person by whom the document purports to be executed denies its execution, or

(b) if any such person appears to the registering officer to be a minor, an idiot or a lunatic, or

(c) if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution, the registering officer shall refuse to register the document as to the person so denying, appearing or dead:

Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII:

⁴¹[Provided further that the State Government may, by notification in the *Official Gazette*, declare that any Sub-Registrar named in the notification shall, in respect of documents the execution of which is denied, be deemed to be a Registrar for the purposes of this sub-section and of Part XII.]

CASE LAW ► Power and duty of Registering Officer.—Registering Officer cannot inquire into title, as his power is not quasi-judicial, but administrative in nature. Registering Officer is only expected to reassure himself that the document to be registered is accompanied by supporting documents. He is not expected to evaluate the title or irregularity in the document as such. The examination to be done by him is incidental, to ascertain that there is no violation of provisions of the 1908 Act. Registering Officer cannot decide as to whether a document presented for registration is executed by person having title, as mentioned in the instrument, *Satya Pal Anand v. State of M.P.*, (2016) 10 SCC 767.

41. Added by Act 13 of 1926, S. 2.

PART VII

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES

36. Procedure where appearance of executant or witness is desired.—If any person presenting any document for registration, or claiming under any document, which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the State Government directs in this behalf to issue a summons requiring him to appear at the registration-office, either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

37. Officer or Court to issue and cause service of summons.—The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

38. Persons exempt from appearance at registration-office.—(1) (a) A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration-office, or

(b) a person in jail under civil or criminal process, or

(c) persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration-office,

shall not be required so to appear.

(2) In the case of every such person the Registering Officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him or issue a commission for his examination.

39. Law as to summonses, commissions and witnesses.—The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission issued and any person summoned to appear under the provisions of this Act.

PART VIII

OF PRESENTING WILLS AND AUTHORITIES TO ADOPT

40. Persons entitled to present wills and authorities to adopt.—(1) The testator, or after his death any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration.

(2) The donor, or after his death the donee, of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

41. Registration of wills and authorities to adopt.—(1) A will or an authority to adopt, presented for registration by the testator or donor may be registered in the same manner as any other document.

(2) A will or authority to adopt presented for registration by any other person entitled to present it shall be registered if the registering officer is satisfied—

- (a) that the will or authority was executed by the testator or donor, as the case may be;
- (b) that the testator or donor is dead; and
- (c) that the person presenting the will or authority is, under Section 40, entitled to present the same.

PART IX

OF THE DEPOSIT OF WILLS

42. Deposit of wills.—Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document.

43. Procedure on deposit of wills.—(1) On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

(2) The Registrar shall then place and retain the sealed cover in his fireproof box.

44. Withdrawal of sealed cover deposited under Section 42.—If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

45. Proceedings on death of depositor.—(1) If, on the death of a testator who has deposited a sealed cover under Section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

(2) When such copy has been made, the Registrar shall re-deposit the original will.

46. Saving certain enactments and powers of Courts.—(1) Nothing hereinbefore contained shall effect the provisions of Section 259 of the Indian Succession Act, 1865 (10 of 1865), or of Section 81 of the Probate and Administration Act, 1881 (5 of 1881), or the power of any Court by order to compel the production of any will.

(2) When any such order is made, the Registrar shall, unless the will has been already copied under Section 45, open the cover and cause the will to be copied into



his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

PART X

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION

47. Time from which registered document operates.—A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

CASE LAW ▶ Title to property.—Title to described property, operates from date of execution and not from date of registration of document concerned, *Ittianam v. Cherichi*, (2010) 8 SCC 612 : (2010) 3 SCC (Civ) 485.

Though on such registration, title will normally pass to purchaser from date of execution of sale deed, true test is the intention of parties. Registration is prima facie proof of an intention to transfer property, but not a proof of operative transfer. If payment of consideration is an condition precedent for passing of title, title would not pass until full consideration is paid to seller. Such intention is primarily to be gathered from recitals of sale deed. Where recitals are insufficient or ambiguous, circumstances and conduct of parties can be looked into, subject to provisions of Section 92, Evidence Act, 1872, *Kaliaperumal v. Rajagopal*, (2009) 4 SCC 193 : (2009) 2 SCC (Civ) 101.

▶ **Date of registration.**—Document registered on a date subsequent to its execution, Operates from date of execution and not from date of registration, *State of Karnataka v. Ragini Narayan*, (2016) 10 SCC 424.

▶ **Benefit of principle in Section 47.**—Wilful subversion/disobedience of court order by resort to Section 47 principle is not permissible. Transfer of property takes place/title passes when conveyance is compulsorily registrable, held, only upon registration, *Ghanshyam Sarda v. J.K. Jute Mills Co. Ltd.*, (2017) 1 SCC 599 : (2017) 1 SCC (Civ) 417.

48. Registered documents relating to property when to take effect against oral agreements.—All non-testamentary documents duly registered under this Act, and relating to any property, whether movable or immovable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession ⁴²[and the same constitutes a valid transfer under any law for the time being in force:

Provided that a mortgage by deposit of title-deeds as defined in Section 58 of the Transfer of Property Act, 1882 (4 of 1882), shall take effect against any mortgage-deed subsequently executed and registered which relates to the same property].

CASE LAW ▶ Collateral transaction.—Collateral transaction, held, is not main transaction, but transaction which is incidentally connected with that transaction, *SMS Tea Estates (P) Ltd. v. Chandmari Tea Co. (P) Ltd.*, (2011) 14 SCC 66 : (2012) 4 SCC (Civ) 777.

42. Added by Act 21 of 1929, S. 10.

► **Sale deed.**—Per doctrine of *ta khubzul badlain*, duly executed sale deed does not operate as transfer in praesenti but postpones actual transfer of title till the time of exchange of equivalents, that is, exchange of registration receipt and complete sale consideration. Hence, where practice of *ta khubzul badlain* is prevalent, until and unless duly executed and registered sale deed comes into possession of purchaser, said deed of sale remains merely an agreement to be performed and will not be a completed sale. However, where such practice is not prevalent, possession of registration receipt by vendor, in the absence of clear evidence, does not lead to inference that consideration has not been paid or that title has not passed to purchaser as recited in the deed of conveyance, *Janak Dulari Devi v. Kapildeo Rai*, (2011) 6 SCC 555 : (2011) 3 SCC (Civ) 432.

49. Effect of non-registration of documents required to be registered.—No document required by Section 17 ⁴³[or by any provision of the Transfer of Property Act, 1882 (4 of 1882),] to be registered shall—

- (a) affect any immovable property comprised therein, or
- (b) confer any power to adopt, or
- (c) be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered:

⁴⁴[Provided that an unregistered document affecting immovable property and required by this Act or the Transfer of Property Act, 1882 (4 of 1882), to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877 (1 of 1877) ⁴⁵[* * *] or as evidence of any collateral transaction not required to be effected by registered instrument.]

CASE LAW ► Presumption of valid execution.—For a registered document there is presumption of valid execution, *Vishwanath Bapurao Sabale v. Shalinibai Nagappa Sabale*, (2009) 12 SCC 101 : (2009) 4 SCC (Civ) 646.

► **Effect of Registration.**—Registration ensures safety and transparency. It avoids fraud and forgery. Registration ensures that every person dealing with immovable property can rely with confidence on statements contained in registers maintained under the Act, *Suraj Lamp & Industries (P) Ltd. v. State of Haryana*, (2009) 7 SCC 363 : (2009) 3 SCC (Civ) 126.

► **Unregistered sale deed.**—Unregistered sale deed tendered not as evidence of completed sale but as proof of oral agreement of sale, can be received in evidence by making endorsement that it was received only as evidence of oral agreement of sale under Section 49 proviso, *S. Kaladevi v. V.R. Somasundaram*, (2010) 5 SCC 401 : (2010) 2 SCC (Civ) 424.

► **Unregistered lease deed.**—Terms of unregistered lease deed for a term more than one year cannot be relied upon to claim or enforce any right under or in respect of such lease. It can be relied upon for limited purposes as to whether possession of lessee is lawful, *SMS Tea Estates (P) Ltd. v. Chandmari Tea Co. (P) Ltd.*, (2011) 14 SCC 66 : (2012) 4 SCC (Civ) 777.

43. Added by Act 21 of 1929, S. 10.

44. Added by Act 21 of 1929, S. 10.

45. The words "or as evidence of part performance of a contract for the purposes of Section 53-A of the Transfer of Property Act, 1882," omitted by Act 48 of 2001, S. 6.

Unregistered lease deed is not admissible as evidence. Unregistered lease deed, held, did not convey any right to purported lessee, *Food Corpn. of India v. V.K. Traders*, (2020) 4 SCC 60.

► **Unregistered rent deed.**—Though an unregistered rent deed cannot be legally accepted in evidence, claim arising therefrom can be granted on basis of other uncontroverted evidence available on record supporting the claim, *Ahmedsaheb v. Sayed Ismail*, (2012) 8 SCC 516 : (2012) 4 SCC (Civ) 532.

► **Compulsorily registerable document.**—Compulsorily registerable document which is not registered can be relied on as evidence of contract in claim for specific performance and as evidence of any collateral transaction which does not require registration of said instrument, *SMS Tea Estates (P) Ltd. v. Chandmari Tea Co. (P) Ltd.*, (2011) 14 SCC 66 : (2012) 4 SCC (Civ) 777.

► **Contents of document.**—Even though a document may be admissible, still its contents have to be proved, *Joseph John Peter Sandy v. Veronica Thomas Rajkumar*, (2013) 3 SCC 801.

50. Certain registered documents relating to land to take effect against unregistered documents.—(1) Every document of the kinds mentioned in clauses (a), (b), (c) and (d) of Section 17, sub-section (1), and clauses (a) and (b) of Section 18, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

(2) Nothing in sub-section (1) applies to leases exempted under the proviso to sub-section (1) of Section 17 or to any document mentioned in sub-section (2) of the same section, or to any registered document which had not priority under the law in force at the commencement of this Act.

Explanation.—In cases where Act XVI of 1864 or the Indian Registration Act, 1866 (20 of 1866), was in force in the place and at the time in and at which such unregistered document was executed, “unregistered” means not registered according to such Act, and, where the document is executed after the first day of July, 1871, not registered under the Indian Registration Act, 1871 (8 of 1871), or the Indian Registration Act, 1877 (3 of 1877), or this Act.

CASE LAW ► Probative/Evidentiary value of documents.—Registered documents (though not mandatorily registerable) would score over others, *Maya Devi v. Lalta Prasad*, (2015) 5 SCC 588 : (2015) 3 SCC (Civ) 168.

PART XI

OF THE DUTIES AND POWERS OF REGISTERING OFFICERS

A—As to the register-books and indexes

51. Register-books to be kept in the several offices.—(1) The following books shall be kept in the several offices hereinafter named, namely:—

A—In all registration offices—

Book 1, “Register of non-testamentary documents 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";

B—In the offices of Registrars—

Book 5, "Register of deposits of wills".

(2) In Book 1 shall be entered or filed all documents or memoranda registered under Sections 17, 18 and 89 which relate to immovable property, and are not wills.

(3) In Book 4 shall be entered all documents registered under clauses (d) and (f) of Section 18 which do not relate to immovable property.

(4) Nothing in this Section shall be deemed to require more than one set of books where the office of the Registrar has been amalgamated with the office of a Sub-Registrar.

52. Duties of registering officers when document presented.—(1) (a) The day, hour and place of presentation ⁴⁶[the photographs and fingerprints affixed under Section 32-A] and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it;

(b) a receipt for such document shall be given by the registering officer to the person presenting the same; and

(c) subject to the provisions contained in Section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

(2) All such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector General.

CASE LAW ▶ Stamp duty.—Assessment of stamp duty for Registration of partition decree by court is not binding on registering authority, *Distt. Sub-Registrar, Siliguri v. Pawan Kumar Verma*, (2013) 7 SCC 537.

53. Entries to be numbered consequentially.—All entries in each book shall be numbered in a consecutive series, which shall commence and terminate with five year, a fresh series being commenced at the beginning of each year.

54. Current indexes and entries therein.—In every office in which any of the books hereinbefore mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

55. Indexes to be made by registering officers, and their contents.—(1) Four such indexes shall be made in all registration offices, and shall be named, respectively, Index No. I, Index No. II, Index No. III and Index No. IV.

(2) Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. 1.

(3) Index No. II shall contain such particulars mentioned in Section 21 relating to every such document and memorandum as the Inspector-General from time to time directs in that behalf.

(4) Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor (but not before) the names and additions of all persons claiming under the same.

(5) Index No. IV shall contain the names and additions of all persons executive and of all persons claiming under every document entered in Book No. 4.

(6) Each Index shall contain such other particulars, and shall be prepared in such form, as the Inspector-General from time to time directs.

56. Copy of entries in Indexes Nos. I, II and III to be sent by Sub-Registrar to Registrar and filed.—⁴⁷[*Repealed*]

57. Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries.—(1) Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the indexes relating to Book No. I shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of Section 62, copies of entries in such books shall be given to all persons applying for such copies.

(2) Subject to the same provisions, copies of entries in Book No. 3 and in the Index relating thereto shall be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies.

(3) Subject to the same provisions, copies of entries in Book No. 4 and in the Index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative.

(4) The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

(5) All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

B—As to the procedure on admitting to registration

58. Particulars to be endorsed on documents admitted to registration.—(1) On every document admitted to registration, other than a copy of a decree or order, or a copy sent to a registering officer under Section 89, there shall be endorsed from time to time the following particulars, namely:—

47. *Repealed* by the Indian Registration (Amendment) Act, 1929 (15 of 1929), S. 2. Prior to repeal it read as:

“56. *Copy of entries in Indexes Nos. I, II and III to be sent by Sub-Registrar to Registrar and filed.*—(1) Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals as the Inspector General from time to time directs, a copy of all entries made by such Sub-Registrar, during the last of such intervals, in Indexes Nos. I, II and III.

(2) Every Registrar receiving such copy shall file it in his office.”

- (a) the signature and addition of every person admitting the execution of the document, and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;
- (b) the signature and addition of every person examined in reference to such document under any of the provisions of the Act; and
- (c) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

CASE LAW ▶ Presumption of correctness.—There is presumption of correctness of endorsement made in the deed by Sub-Registrar under Section 58 that presumption can be rebutted only by strong evidence to the contrary, *Ishwar Dass Jain v. Sohan Lal*, (2000) 1 SCC 434.

59. Endorsements to be dated and signed by registering officer.—The registering officer shall affix the date and his signature to all endorsements made under Sections 52 and 58, relating to the same document and made in his presence on the same day.

60. Certificate of registration.—(1) After such of the provisions of Sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word “registered” together with the number and page of the book in which the document has been copied.

(2) Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in Section 59 have occurred as therein mentioned.

CASE LAW ▶ Completion of registration.—Only by issue of the certificate is the registration complete, *Chandrika Singh v. Arvind Kumar Singh*, (2006) 10 SCC 404.

61. Endorsements and certificate to be copied and document returned.—(1) The endorsements and certificate referred to and mentioned in Sections 59 and 60 shall thereupon be copied into the margin of the Register-book, and the copy of the map or plan (if any) mentioned in Section 21 shall be filed in Book No. 1.

(2) The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in Section 52.

62. Procedure on presenting document in language unknown to registering officer.—(1) When a document is presented for registration under

Section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in Section 19, shall be filed in the registration office.

(2) The endorsements and certificate respectively mentioned in Sections 59 and 60 shall be made on the original, and, for the purpose of making the copies and memoranda required by Sections 57, 64, 65 and 66, the translation shall be related as if it were the original.

63. Power to administer oaths and record of substance of statements.—(1) Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

(2) Every such officer may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and, if he admits the correctness of such note, it shall be signed by the registering officer.

(3) Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

C—Special duties of Sub-Registrar

64. Procedure where document relates to land in several sub-districts.—Every Sub-Registrar on registering a non-testamentary document relating to immovable property not wholly situate in his own sub-district shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose sub-district any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1

65. Procedure where document relates to land in several districts.—(1) Every Sub-Registrar on registering a non-testamentary document relating to immovable property situate in more districts than one shall also forward a copy thereof and of the endorsement and certificate (if any) thereon, together with a copy of the map or plan (if any) mentioned in Section 21, to the Registrar of every district in which any part of such property is situate other than the district in which his own sub-district is situate.

(2) The Registrar on receiving the same shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the Sub-Registrars subordinate to him within whose sub-district any part of such property is situate; and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

D—Special duties of Registrar

66. Procedure after registration of documents relating to land.—On registering any non-testamentary document relating to immovable property, the

Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose sub-district any part of the property is situate.

(2) The Registrar shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in Section 21, to every other Registrar in whose district any part of such property is situate.

(3) Such Registrar on receiving any such copy shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrars subordinate to him within whose sub-district any part of the property is situate.

(4) Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.]

67. Procedure after registration under Section 30, sub-section (2).—⁴⁸[* * *]

E—Of the controlling powers of Registrars and Inspectors General

68. Power of Registrar to superintend and control Sub-Registrars.—(1) Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

(2) Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered.

69. Power of Inspector General to superintend registration offices and make rules.—(1) The Inspector General shall exercise a general superintendence over all the registration offices in the territories under the State Government and shall have power from time to time to make rules consistent with this Act—

- (a) providing for the safe custody of books, papers and documents ⁴⁹[* * *];
- ⁵⁰[(aa) providing the manner in which and the safeguards subject to which the books may be kept in computer floppies or diskettes or in any other electronic form under sub-section (1) of Section 16-A;]
- (b) declaring what languages shall be deemed to be commonly used in each district;
- (c) declaring what territorial divisions shall be recognized under Section 21;
- (d) regulating the amount of fines imposed under Sections 25 and 34, respectively;

48. Omitted by Act 48 of 2001, S. 8. Prior to omission it read as:

"67. Procedure after registration under Section 30, sub-section (2).—On any documents being registered under Section 30, sub-section (2), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose district any part of the property to which the instruments relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in Section 66, sub-section (1)."

49. The words "and also for the destruction of each books, papers and documents as need no longer be kept" repealed by Act 5 of 1917, S. 6 and Sch.

50. Ins. by Act 48 of 2001, S. 9.

- (e) regulating the exercise of the discretion reposed in the registering officer by Section 63;
- (f) regulating the form in which registering officers are to make memoranda of documents;
- (g) regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under Section 51;
- ⁵¹[(gg) regulating the manner in which the instruments referred to in sub-section (2) of Section 88 may be presented for registration;]
- (h) declaring the particulars to be contained in Indexes Nos. I, II, III and IV, respectively;
- (i) declaring the holidays that shall be observed in the registration offices; and
- (j) generally, regulating the proceedings of Registrars and Sub-Registrars.

(2) The rules so made shall be submitted to the State Government for approval and, after they have been approved, they shall be published in the Official Gazette, and on publication shall have effect as if enacted in this Act.

70. Power of Inspector General to remit fines.—The Inspector General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under Section 25 or Section 34, and the amount of the proper registration fee.

PART XII OF REFUSAL TO REGISTER

71. Reasons for refusal to register to be recorded.—(1) Every Sub-Registrar refusing to register a document except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words “registration refused” on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

72. Appeal to Registrar from orders of Sub-Registrar refusing registration on ground other than denial of execution.—(1) Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order.

(2) If the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of

51. *Ins.* by Act 39 of 1948, S. 4.

such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in Sections 58, 59 and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

73. Application to Registrar where Sub-Registrar refuses to register on ground of denial of execution.—(1) When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution, any person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

(2) Such application shall be in writing and shall be accompanied by a copy of the reasons recorded under Section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

74. Procedure of Registrar on such application.—In such case, and also where such denial as aforesaid is made before a Registrar in respect of a document presented for registration to him, the Registrar shall, as soon as conveniently may be, enquire—

(a) whether the document has been executed;

(b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration.

75. Order by Registrar to register and procedure thereon.—(1) If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

(2) If the document is duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same and thereupon shall, so far as may be practicable, follow the procedure prescribed in Sections 58, 59 and 60.

(3) Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

(4) The Registrar may, for the purpose of any enquiry under Section 74, summon and enforce the attendance of witnesses, and compel them to give evidence, as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908 (5 of 1908).

76. Order of refusal by Registrar.—(1) Every Registrar refusing—

(a) to register a document except on the ground that the property to which it relates is not situate within his district or that the document ought to be registered in the office of a Sub-Registrar, or

(b) to direct the registration of a document under Section 72 or Section 75, shall make an order of refusal and record the reasons for such order in his Book No. 2, and, on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

(2) No appeal lies from any order by a Registrar under this Section or Section 72.

77. Suit in case of order of refusal by Registrar.—(1) Where the Registrar refuses to order the document to be registered, under Section 72 or Section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court, within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office if it be duly presented for registration within thirty days after the passing of such decree.

(2) The provisions contained in sub-sections (2) and (3) of Section 75 shall, *mutatis mutandis*, apply to all documents presented for registration in accordance with any such decree, and, notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

CASE LAW ► Civil Court.—Where dispute regarding execution of sale deed pending trial before Civil Court, Section 77(2) lifts bar under Section 49 enabling the court to look into the document for adjudicating the dispute, *Mary Joyce Poonacha v. K.T. Plantations (P) Ltd.*, 1995 Supp (2) SCC 459.

PART XIII

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES

78. Fees to be fixed by State Government.—⁵²[* * *] The State Government shall prepare a table of fees payable.—

- (a) for the registration of documents;
 - (b) for searching the registers;
 - (c) for making or granting copies of reasons, entries or documents, before, on or after registration;
- and of extra or additional fees payable—
- (d) for every registration under Section 30;
 - (e) for the issue of commissions;
 - (f) for filing translations;
 - (g) for attending at private residences;
 - (h) for the safe custody and return of documents; and

52. The words "Subject to the control of the G.G. in C." omitted by Act 38 of 1920, S. 2 and Sch. I.

- (i) for such other matters as appear to the State Government necessary to effect the purposes of this Act.

79. Publication of fees.—A table of the fees so payable shall be published in the Official Gazette, and a copy thereof in English and the vernacular language of the district shall be exposed to public view in every registration office.

80. Fees payable on presentation.—All fees for the registration of documents under this Act shall be payable on the presentation of such documents.

PART XIV OF PENALTIES

81. Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.—Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying translating or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury, as defined in the Indian Penal Code (45 of 1860), to any person, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

82. Penalty for making false statements delivering false copies or translations, false personation, and abetment.—Whoever—

- (a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or inquiry under this Act; or
- (b) intentionally delivers to a registering officer in any proceeding under Section 19 or Section 21, a false copy or translation of a document, or a false copy of a map or plan; or
- (c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act; or
- (d) abets anything made punishable by this Act;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

83. Registering officer may commence prosecutions.—(1) A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, ⁵³[* * *] the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

53. The words "the Branch Inspector-General Sind" omitted by A.O. 1937.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class.

CASE LAW ▶ Nature and scope .—On a reading of Section 83, it would be clear that it deals only with prosecution for an offence under the Act coming to the knowledge of the Registering Officer in his official capacity. The section is not prohibitory in that it does not preclude a private person from commencing a prosecution. Even in a case where commission of an offence comes to the knowledge of Registering Officer in his official capacity, the section does not prohibit a private person from commencing a prosecution as the section is clearly permissive in its language and intent, *Dharmadeo Rai v. Ramnagina Rai*, (1972) 1 SCC 460 : 1972 SCC (Cri) 216.

84. Registering officers to be deemed public servants.—(1) Every registering officer appointed under this Act shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In Section 228 of the Indian Penal Code (45 of 1860), the words “judicial proceeding” shall be deemed to include any proceeding under this Act.

PART XV

MISCELLANEOUS

85. Destruction of unclaimed documents.—Documents (other than wills) remaining unclaimed in any registration office or a period exceeding two years may be destroyed.

86. Registering officer not liable for thing bona fide done or refused in his official capacity.—No registering officer shall be liable to any suit, claim or demand by reason of any thing in good faith done or refused in his official capacity.

87. Nothing so done invalidated by defect in appointment or Procedure.—Nothing done in good faith pursuant to this Act or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

⁵⁴[**88. Registration of documents executed by Government officers or certain public functionaries.**—(1) Notwithstanding anything contained in this Act, it shall not be necessary for—

- (a) any officer of Government, or
- (b) any Administrator General, Official Trustee or Official Assignee, or
- (c) the Sheriff, Receiver or Registrar of a High Court, or
- (d) the holder for the time being of such other public office as may be specified in a notification in the *Official Gazette* issued in that behalf by the State Government,

to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him or in his favour, in his official capacity, or to sign as provided in Section 58.

54. Subs. by Act 39 of 1948, S. 5, for the original, S. 88.

(2) Any instrument executed by or in favour of an officer of Government or any other person referred to in sub-section (1) may be presented for registration in such manner as may be prescribed by rules made under Section 69.

(3) The registering officer to whom any instrument is presented for registration under this section may, if he thinks fit, refer to any Secretary to Government or to such officer of Government or other person referred to in sub-section (1) for information respecting the same and, on being satisfied of the execution thereof, shall register the instrument.]

89. Copies of certain orders, certificates and instruments to be sent to registering officers and filed.—(1) Every officer granting a loan under the Land Improvement Loans Act, 1883 (19 of 1883), shall send a copy of his order to the registering officer within the local limits of whose jurisdiction the whole or any part of the land to be improved or of the land to be granted as collateral security, is situate, and such registering officer shall file the copy in his Book No. 1.

(2) Every Court granting a certificate of sale of immovable property under the Code of Civil Procedure, 1908 (5 of 1908), shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

(3) Every officer granting a loan under the Agriculturist's Loans Act, 1884 (12 of 1884), shall send a copy of any instrument whereby immovable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.

(4) Every Revenue Officer granting a certificate of sale to the purchaser of immovable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1.

CASE LAW ► Registration of the document.—Filing of a copy of sale certificate in Book No. 1 under Section 89(4) does not amount to registration of the document, *Shanti Devi L. Singh v. Tax Recovery Officer*, (1990) 3 SCC 605.

Exemptions from Act

90. Exemption of certain documents executed by or in favour of Government.—(1) Nothing contained in this Act or in the Indian Registration Act, 1877 (3 of 1877), or in the Indian Registration Act, 1871 (8 of 1871), or in any Act thereby repealed, shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps, namely—



- (a) documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlement; or
- (b) document and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey; or
- (c) documents which, under any law for the time being in force, are filed periodically in any revenue-office by patwaris or other officers charged with the preparation of village-records; or
- (d) sanads, inam, title-deeds and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land; or
- (e) notices given under Section 74 or Section 76 of the Bombay Land-Revenue Code, 1879 (Bombay Act 5 of 1879), of relinquishment of occupancy by occupants, or of alienated land by holders of such land.

(2) All such documents and maps shall, for purposes of Sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

91. Inspection and copies of such documents.—(1) Subject to such rules and the previous payment of such fees as the ⁵⁵[State Government, by notification in the Official Gazette, prescribes in this behalf], all documents and maps mentioned in Section 90, clauses (a), (b), (c) and (e), and all registers of the documents mentioned in clause (d), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

⁵⁶[(2) Every rule prescribed under this section or made under Section 69 shall be laid, as soon as it is made, before the State Legislature.]

92. Burmese registration rules confirmed.—⁵⁷[*Repealed*]

Repeals

93. Repeals.—⁵⁸[*Repealed*]

55. Subs. by Act 20 of 1983 (w.e.f. 15-3-1984).

56. Section 91 renumbered as sub-section (1) and sub-section (2) inserted by Act 20 of 1983 (w.e.f. 15-3-1984).

57. *Repealed* by the Government of India (Adaptation of Indian Laws) Order, 1937. Prior to repeal it read as:

“92. *Burmese registration rules confirmed.*—All rules relating to registration enforce in Lower Burma prior to the commencement of the Indian Registration Act, 1877, shall be deemed to have had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.”

58. *Repealed* by the Repealing Act, 1938 (1 of 1938), Section 2 and Sch. Prior to repeal it read as:

“93. *Repeals.*—(1) The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

(2) Nothing herein contained shall be deemed to affect any provision of any enactment in force in any part of British India and not hereby expressly repealed.”

THE SCHEDULE
Repeal of Enactments

⁵⁹[* * *]

59. Repealed by the Repealing Act, 1938 (1 of 1938), Section 2 and Sch. Prior to repeal it read as:

“THE SCHEDULE
Repeal of Enactments

1877	III	The Indian Registration Act, 1877	The whole
1879	XII	The Registration and Limitation Acts Amendment Act, 1879	So much as is unrepealed
1883	XIX	The Land Improvement Loans Act, 1883	So much of Section 12 as is unrepealed
1886	VII	The Indian Registration Act, 1886	The whole
1888	VII	The Civil Procedure Code Amendment Act, 1888	So much as is unrepealed
1891	XII	The Amending Act, 1891	In the Second Schedule the entries relating to Act III of 1877
1899	XVII	The Indian Registration (Amendment) Act, 1899	The whole”