

THE REGISTRATION ACT, 1908

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THE REGISTRATION ACT, 1908

INTRODUCTION

The Registry laws relating to registration of documents were to be found in West Bengal Regulation (36 of 1793), Bombay Regulation (1 of 1800) and Madras Regulation (17 of 1802). Bombay Regulation (1 of 1800) was replaced by Bombay Regulation (4 of 1802), which was replaced by Bombay Regulation (1 of 1827) and was substituted by Bombay Regulation (9 of 1827). Later Act 1 of 1843 was enacted but it was repealed by Act 19 of 1843 as some doubts arose about the true meaning and construction of Act 1 of 1843. In 1864 the Indian Registration Act, 1864 (16 of 1864) was enacted. This Act came into force on 1st January, 1865. It was amended by Act 9 of 1865. Act 16 of 1864 was replaced by Act 20 of 1866. A new enactment the Indian Registration Act, 1871 (8 of 1871) was brought into force but it was replaced by the Indian Registration Act, 1877 (3 of 1877). Act 3 of 1877 was amended by Acts 12 of 1879, 19 of 1883, 7 of 1886, 7 of 1888, 13 of 1889, 12 of 1891 and 17 of 1899. The need was felt to consolidate the enactments relating to the registration of documents. Accordingly the Indian Registration Bill was introduced in the Legislature. The Bill was referred to the Select Committee. The recommendations of the Select Committee were incorporated in the Bill.

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, 1897, will apply to the Bill when passed has rendered it unnecessary to retain 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.

ACT 16 OF 1908

The Indian Registration Bill after having been passed by the Legislature received the assent of the Governor-General on 18th December, 1908, and it came on the Statute Book as the Indian Registration Act, 1908 (16 of 1908). By section 2(a) of the Indian Registration (Amendment) Act, 1969 (45 of 1969) the word "Indian" has been omitted (w.e.f. 26-12-1969) and now it stands as THE REGISTRATION ACT, 1908 (16 of 1908).

LIST OF AMENDING ACTS AND ADAPTATION ORDERS

1. The Decentralisation Act, 1914 (4 of 1914).
2. The Destruction of Records Act, 1917 (5 of 1917).
3. The Indian Registration (Amendment) Act, 1917 (15 of 1917).
4. The Indian Registration (Amendment) Act, 1920 (38 of 1920).
5. The Indian Registration (Amendment) Act, 1926 (13 of 1926).
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7. The Repealing and Amending Act, 1927 (10 of 1927).
8. The Indian Registration (Amendment) Act, 1929 (15 of 1929).
9. The Transfer of Property (Amendment) Supplementary Act, 1929 (21 of 1929).
10. The Government of India (Adaptation of Indian Laws) Order, 1937.
11. The Repealing Act, 1938 (1 of 1938).
12. The Indian Registration (Amendment) Act, 1940 (33 of 1940).
13. The Indian Registration (Amendment) Act, 1948 (39 of 1948).
14. The Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
15. The Adaptation of Laws Order, 1950.
16. The Part B States (Laws) Act, 1951 (3 of 1951).
17. The Indian Registration (Amendment) Act, 1956 (17 of 1956).
18. The Indian Registration (Amendment) Act, 1969 (45 of 1969).
19. The Delegated Legislation Provisions (Amendment) Act, 1983 (20 of 1983).
20. The Registration and Other Related Laws (Amendment) Act, 2001 (48 of 2001).

THE REGISTRATION ACT, 1908¹

(16 of 1908)

[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:—

PART I

PRELIMINARY

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

³(2) It extends to the whole of India except the State of Jammu and Kashmir: 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 or 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 ⁴[an Indian], ⁵[***] 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;

1. For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 325; for Report of Select Committee, see Gazette of India, 1908, Pt. V, p. 387; and for Proceedings in Council, see Gazette of India, 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, sec. 2 and Sch. I; to Goa, Daman and Diu by Reg. 11 of 1963, sec. 3 and Sch.; to Lakshadweep by Reg. 8 of 1965, sec. 3 and Sch., to Pondicherry by Act 26 of 1968, sec. 3 and Sch.

It has been declared to be in force in Panth Piploda by the Panth Piploda Laws Regulation, 1929 (1 of 1929), sec. 2; in the Khondmals District by the Khondmals Laws Regulation, 1936 (5 of 1936), sec. 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, 1929, Pt. I, p. 662.

2. The word "Indian" omitted by Act 45 of 1969, sec. 2 (w.e.f. 26-12-1969).
 3. Subs. by Act 3 of 1951, sec. 3 and Sch., for sub-section (2) (w.e.f. 1-4-1951).
 4. Subs. by the A.O. 1950, for "a Native of India" (w.e.f. 26-1-1950).
 5. The words "his caste (if any) and" omitted by Act 17 of 1956, sec. 2 (w.e.f. 6-4-1956).

- (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;
- ¹[(6A) "India" means the territory of India excluding the State of Jammu and Kashmir;]
- (7) "lease" includes a counterpart, *kabuliyat*, and 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.

²[***]

STATE AMENDMENTS

Andhra Pradesh:

In section 2, in sub-section (2), after the words "includes a portion of book", add the words "and the information storage devices like floppy disk, hard disk, compact disk".

[Vide Andhra Pradesh Act 16 of 1999, sec. 2 (w.e.f. 31-12-1998).]

Goa, Daman and Diu:

In section 2, in clause (1), before the words "his father's name", insert the words "his marital status, and".

[Vide Goa, Daman and Diu Act 2 of 1968, sec. 2.]

Tamil Nadu:

In section 2,—

(i) in clause (9), at the end, omit the word "and";

(ii) in clause (10), at the end, add the word "and";

(iii) after clause (10), add the following clause, namely:—

(11) "tout" means a person who habitually frequents the precincts of a registration office, for the purpose of employment for himself or for any other person in connection with any registration business and who is so declared as a tout under Part XIII A.

[Vide Tamil Nadu Act 38 of 1987, sec. 3 (w.e.f. 18-1-1988).]

In section 2, in clause (2), at the end, add the following expression, namely:—

"and the information storage devices like floppy disk, hard disk or compact disk or any other electronic media".

[Vide Tamil Nadu Act 50 of 2000, sec. 2 (w.e.f. 25-7-2000).]

Uttar Pradesh:

In section 2,—

(1) in clause (2), for the words "or portion of book", substitute the words "or portion of a book and also includes a book in electronic form".

(2) after clause (10), insert the following clauses, namely:—

"(10A) true copy includes a true photostap copy;

1. Ins. by Act 3 of 1951, sec. 3 and Sch. (w.e.f. 1-4-1951).

2. Clause (11) omitted by Act 3 of 1951, sec. 3 and Sch. (w.e.f. 1-4-1951). Earlier clause (11) was inserted by the A.O. 1950.

- (10B) the words and expressions used but not defined in this Act and defined in the Information Technology Act, 2000, shall have the respective meaning assigned to them in that Act."

[Vide Uttar Pradesh Act 36 of 2001, sec. 2 (w.e.f. 20-5-2002).]

West Bengal:

In section 2,—

(1) in clause (9), at the end, omit the word "and", and

(2) after clause (10), add the following word and clause, namely:—
'and

(11) "tout" means a person—

(a) who habitually frequents the precincts of a registration office, without a licence granted to him under the rules made under section 80G, for the purpose of obtaining employment for himself or any other person in connection with any registration business; or

(b) who is declared to be deemed to be a tout for the purposes of this Act by rules made under section 80G.'

[Vide West Bengal Act 5 of 1942, sec. 8 (w.e.f. 1-11-1943).]

PART II

OF THE REGISTRATION-ESTABLISHMENT

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

Provided that the ¹[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 ¹[State Government] appoints in this behalf.

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

STATE AMENDMENT

Uttar Pradesh:

In section 3, after sub-section (2), insert the following sub-section, namely:—

"(3) The State Government may appoint one or more Additional Inspector-General of Registration and Deputy Inspector-General of Registration for the territories subject to such Government and may prescribe the duties of such officers and authorise them to exercise and perform all or any of the powers and duties of the Inspector-General of Registration."

[Vide Uttar Pradesh Act 48 of 1975, sec. 2 (w.e.f. 1-11-1975).]

In section 3, in sub-section (3), for the words "Additional Inspector-General of Registration and Deputy Inspector-General of Registration", substitute the words "Additional Inspector-General of Registration, Deputy Inspector-General of Registration and Assistant Inspector-General of Registration."

[Vide Uttar Pradesh Act 36 of 2001, sec. 3 (w.e.f. 20-5-2002).]

4. Branch Inspector-General of Sindh.—[Rep. by the Government of India (Adaptation of Indian Laws) Orders, 1937.]

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

1. Subs. by the A.O. 1950, for "Provincial Government".

2. Subs. by the A.O. 1950, for "the Crown".

(2) The districts and sub-districts formed under this section, together with the limits thereof, and every alternation of such limits, shall be notified in the ¹[Official Gazette].

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

6. Registrars and Sub-Registrars.—The ²[State Government] may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the several districts, and to be Sub-Registrars of the several sub-districts, formed as aforesaid, respectively.

³[***]

STATE AMENDMENTS

Karnataka:

In section 6, at the end, insert the following provisos, namely:—

“Provided that the State Government may also appoint one or more Sub-Registrars for the same Sub-District:

Provided further that the State Government may delegate to the Inspector-General of Registration, the power of appointing Sub-Registrars.”

[Vide Karnataka Act 32 of 2001, sec. 2 (w.e.f. 3-10-2001).]

Uttar Pradesh:

In section 6, at the end, insert the following proviso, namely:—

“Provided that the State 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.”

[Vide Uttar Pradesh Act 19 of 1981, sec. 5 (w.e.f. 1-8-1981).]

SECTION 6A

Maharashtra:

After section 6, insert the following section, namely:—

“6A. *Joint District Registrars.*—The State Government may by order also appoint a Joint District Registrar to assist the District Registrar, or any two or more District Registrars, specified in the order and may authorise such Joint District Registrar to exercise and perform all or any of the powers and duties of the District Registrar under this Act.”

[Vide Maharashtra Act 29 of 1974, sec. 2 (w.e.f. 10-6-1974).]

Uttar Pradesh:

After section 6, insert the following section, namely:—

“6A. *Additional Registrar.*—The State Government may, by order, also appoint any public officer as an Additional Registrar, to assist the Registrar, or any two or more Registrars, specified in the order and may authorise such Additional Registrars to exercise and perform all or any of the powers and duties of the Registrar under this Act.”

[Vide Uttar Pradesh Act 27 of 1994, sec. 2.]

7. Offices of Registrar and Sub-Registrar.—(1) The ²[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.

1. Subs. by the A.O. 1937, for “Local Official Gazette”.

2. Subs. by the A.O. 1950, for “Provincial Government”.

3. Proviso omitted by the A.O. 1937. Earlier the proviso was added by Act 4 of 1914, sec. 2 and Sch., Pt. 4.

(2) The ¹[State Government] may amalgamate with any office of a Registrar, any office of a Sub-Registrar subordinate to such Registrar, and may authorise 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 the duties of the Registrar to whom he is subordinate:

Provided that no such authorisation 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 ¹[State Government] may also appoint officers to be called Inspector of Registration offices, and may prescribe the duties of such officers.

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

STATE AMENDMENTS

Orissa:

In section 8,—

(a) in sub-section (1), for the words “Inspector of Registration offices”, substitute the words “Additional Inspector-General of Registration, Joint Inspector-General of Registration and Deputy Inspector-General of Registration”; and

(b) in sub-section (2), for the words “Inspector”, substitute the words “Additional Inspector-General, Joint Inspector-General and Deputy Inspector-General”.

[Vide Orissa Act 8 of 2002, sec. 2 (w.e.f. 24-5-2002).]

Rajasthan:

For section 8, substitute the following section, namely:—

“8. *Officers of registration offices.*—(1) The State Government may also appoint officers as may be designated from time to time and may prescribe the duties of such officers.

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

[Vide Rajasthan Act 11 of 1982, sec. 2 (w.e.f. 16-6-1982).]

Uttar Pradesh:

Omit section 8.

[Vide Uttar Pradesh Act 36 of 2001, sec. 4 (w.e.f. 20-5-2002).]

9. Military cantonments may be declared sub-districts or districts.—[Rep. by the Repealing and Amending Act, 1927 (10 of 1927), sec. 3 and Sch. II.]

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 ¹[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 ¹[State Government] fills up the vacancy.

1. Subs. by the A.O. 1950, for “Provincial Government”.

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 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 ¹[the vacancy is filled up].

STATE AMENDMENT

Karnataka:

In section 12, after the word "whom", insert the words "the Inspector-General of Registration or".

[Vide Karnataka Act 32 of 2001, sec. 3 (w.e.f. 3-10-2001).]

Uttar Pradesh:

In section 12, for the words "Registrar of the District", substitute the words "Inspector-General of Registration".

[Vide Uttar Pradesh Act 36 of 2001, sec. 5 (w.e.f. 20-5-2002).]

13. Report to State Government of appointments under sections 10, 11 and 12.—(1) ²[***] All appointments made under section 10, section 11 or section 12 shall be reported to the ³[State Government] by the Inspector-General.

(2) Such report shall be either special or general, as the ³[State Government] directs.

⁴[***]

14. Establishments of registering officers.—⁵[***]

(2) The ³[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 ³[State Government] directs:—

"The seal of the Registrar (or of the Sub-Registrar) of".

16. Register-books and fire-proof boxes.—(1) The ³[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 ³[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 ³[State Government] shall supply the office of every Registrar with a fire-proof box, and shall in each district make suitable provision for the safe

1. Subs. by Act 4 of 1914, sec. 2 and Sch., Pt. I, for "the Local Government fills up the vacancy".

2. The words "All appointments made by the Inspector-General under section 6 and" omitted by the A.O. 1937. Earlier these words were inserted by Act 4 of 1914, sec. 2 and Sch., Pt. I.

3. Subs. by the A.O. 1950, for "Provincial Government".

4. Sub-section (3) omitted by the A.O. 1937.

5. Sub-section (1) omitted by the A.O. 1937.

custody of the records connected with the registration of documents in such district.

STATE AMENDMENTS

Andhra Pradesh:

In section 16, for sub-section (1), substitute the following sub-section, namely:—

"(1) The State Government shall provide for the office of every registering officer the books and also the information processing and storage devices like computers and scanners along with the software prescribed by the Inspector-General, from time to time, necessary for purpose of this Act."

[Vide Andhra Pradesh Act 16 of 1999, sec. 3 (w.e.f. 31-12-1998).]

Tamil Nadu:

In section 16, after sub-section (2), insert the following sub-section, namely:—

"(2A) The State Government shall also provide for the office of every Registering Officer notified by the State Government under sub-section (1) of section 70B, the information processing and storage devices like computer and scanners along with the software prescribed by the Inspector-General, from time to time, necessary for purpose of this Act."

[Vide Tamil Nadu Act 50 of 2000, sec. 3 (w.e.f. 25-7-2005).]

¹[16A. Keeping of books in computer floppies, diskettes, etc.—

(1) Notwithstanding anything contained in section 16, the books provided under 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 executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 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

1. Ins. by Act 48 of 2001, sec. 2 (w.e.f. 24-9-2001).

- (d) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent;
- ¹[(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 ²[State Government] may, by order published in the ³[Official Gazette], exempt from the operation of this sub-section any lease 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.

⁴[(1A) The documents containing contracts to transfer for consideration, any immovable property for the purpose of section 53A 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, 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 53A.]

(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) ⁵[any document other than the documents specified in sub-section (1A)] 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

1. Added by Act 21 of 1929, sec. 10.

2. Subs. by the A.O. 1950, for "Provincial Government".

3. Subs. by the A.O. 1937, for "Local Official Gazette".

4. Ins. by Act 48 of 2001, sec. 3(a) (w.e.f. 24-9-2001).

5. Subs. by Act 48 of 2001, sec. 3(b), for "any document" (w.e.f. 24-9-2001).

- 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 ¹[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 ²[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, or the Land Improvement Loans Act, 1883; or
- (x) any order granting a loan under the Agriculturists, Loans Act, 1884, or instrument for securing the repayment of a loan made under that Act; or
- ³[(xa) any order made under the Charitable Endowments Act, 1890, (6 of 1890) vesting any property in a Treasurer of Charitable Endowments or 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 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.

⁴[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.

STATE AMENDMENTS

Andhra Pradesh:

In section 17,—

(a) in sub-section (1),—

(i) for clause (d), substitute the following clause, namely:—

"(d) leases of immovable property;"

(ii) after clause (e) but before the proviso, insert the following clauses, namely:—

"(f) any decree or order or award or a copy thereof passed by a Civil Court on consent of the defendants or on circumstantial evidence but not on the basis

1. Subs. by Act 21 of 1929, sec. 10, for "and any award".

2. Subs. by the A.O. 1950, for "Crown".

3. Ins. by Act 39 of 1948, sec. 2 (w.e.f. 3-9-1948).

4. Ins. by Act 2 of 1927, sec. 2.

of any instrument which is admissible in evidence under section 35 of the Indian Stamp Act, 1899 (2 of 1899), such as registered title deed produced by the plaintiff, where such decree or order or award purports or operates to create, declare, assign, limit, 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; and

(g) agreement of sale of immovable property of the value of one hundred rupee and upwards;"

(b) in sub-section (2),—

(i) in clause (v), for the words "any document not in itself creating", substitute the words "any document except an agreement of sale as mentioned in clause (g) of sub-section (1) not in itself creating";

(ii) in clause (vi), for the words "any decree or order of a Court", substitute the words "any decree or order of a Court, not being a decree or order or award falling under clause (f) of sub-section (1)";

(iii) omit *Explanation*.

[Vide Andhra Pradesh Act 4 of 1999, sec. 2 (w.e.f. 1-4-1999).]

Gujarat:

In section 17,—

(i) in sub-section (1), after clause (a), insert the following clause, namely:—

"(aa) instruments which purport or operate to effect any contract for transfer of any immovable property;"

(ii) after sub-section (1), insert the following sub-section, namely:—

"(1A) The provisions of section 23 shall apply to an instrument referred to in clause (aa) of sub-section (1) and executed before the commencement of the Registration (Gujarat Amendment) Act, 1982 as if in that section for the words "from the date of its execution" the words, figures and letters "from the 1st March, 1982" has been substituted."

(iii) in sub-section (2), omit *Explanation*.

[Vide Gujarat Act 7 of 1982, sec. 2 (w.e.f. 18-12-1981).]

Kerala:

In section 17, in sub-section (2), omit clauses (ix) and (x).

[Vide Kerala Act 7 of 1968, sec. 2 (w.e.f. 22-2-1968).]

Maharashtra:

In section 17, in sub-section (2), in clause (x),—

(a) after the words and figures "Agriculturists' Loans Act, 1884", insert the words "or under the Bombay Non-Agriculturists' Loans Act, 1928";

(b) for the words "under that Act", substitute the words "under either of those Acts".

[Vide Maharashtra Act 19 of 1960, sec. 2 (w.e.f. 24-10-1960).]

Orissa:

In section 17, after clause (e), insert the following clauses, namely:—

"(f) agreement to sell immovable property possession whereof has been or is handed over to the purported purchaser;

(g) Power-of-attorney relating to transfer of immovable property possession whereof has been or is handed over to the purported attorney holder."

[Vide Orissa Act 8 of 2002, sec. 3.]

Pondicherry:

In section 17, in sub-section (3), for the words "the first day of January, 1872", substitute the words "the 9th day of January, 1969".

[Vide Pondicherry Act 17 of 1970, sec. 2 (w.e.f. 1-11-1970).]

Rajasthan:

In section 17, in sub-section (2),—

(i) in clause (xii), at the end, insert the word "or"; and

(ii) after clause (xii), insert the following clause, namely:—

"(xiii) any instrument referred to in sub-section (5) of section 89."

[Vide Rajasthan Act 16 of 1976, sec. 2 (w.e.f. 13-2-1976).]

(a) in sub-section (1), after clause (e) and before the proviso, add the following clauses, namely:—

"(f) agreement to sell immovable property possession whereof has been or is handed over to the purported purchaser;

(g) irrevocable power of attorney relating to transfer of immovable property in any way;" and

(b) in sub-section (2), omit the existing *Explanation*.

[Vide Rajasthan Act 18 of 1989, sec. 2 (w.e.f. 18-9-1989).]

Tamil Nadu:

In section 17, in sub-section (1), after clause (e), add the following clause, namely:—

"(f) instruments of agreement relating to construction of multi unit house or building on land held by several persons as referred to in clause (i) under Article 5 of Schedule I to the Indian Stamp Act, 1899 (2 of 1899)."

[Vide Tamil Nadu Act 38 of 1987, sec. 3 (w.e.f. 1-1-1988).]

Uttar Pradesh:

In section 17,—

(a) in sub-section (1)—

(i) in clauses (b) and (e), omit the words "of the value of one hundred rupees and upwards";

(ii) after clause (e), insert the following clause, namely:—

"(f) any other instrument required by any law for the time being in force, to be registered;"

(iii) omit proviso;

(b) in sub-section (2)—

(i) in clause (v), after the words "any document" occurring in the beginning, insert the words "other than contract for sale", and omit the words "of the value of the one hundred rupees and upwards";

(ii) omit *Explanation*;

(c) in sub-section (3), after the words "by a will", insert the words "and an instrument recording adoption of a child executed after the first day of January, 1977".

[Vide Uttar Pradesh Act 57 of 1976, sec. 32 (w.e.f. 1-1-1977).]

COMMENTS

(i) In a composite document, which has the characteristics of a Will as well as a gift, it may be necessary to have that document registered otherwise that part of the document which has the effect of a gift cannot be given effect to. Therefore, it is not unusual to register a composite document which has the characteristics of a gift as well as a Will. Consequently, the mere registration of document cannot have any determining effect in arriving at a conclusion that it is not a Will. The document which may serve as evidence of the gift, falls within the sweep of section 17 of the Act, where an instrument evidences creation, declaration, assignment, limitation, or extinction of any present or future right, title or interest in immovable property or where any instrument acknowledges the receipt of payment of consideration on account of creation, declaration, assignment, limitation or extinction of such right, title or interest, in those cases alone the instrument or receipt would be compulsorily registerable under section 17(1)(b) or (c) of the Act. A 'Will' need not necessarily be registered. But the fact of registration of a 'Will' will not render the document a settlement; *Mathai Samuel v. Eapen Eapen*, 2012 (11) JT 364: 2012 (11) SCALE 167: 2012 (8) SLT 620.

(ii) An instrument of gift of immovable property requires registration under this Act, whatever be the value of the property; *Charan v. Sucha*, (1921) 4 Lah LJ 7.

(iii) When it is necessary to determine whether an instrument other than a deed of gift purports or operates to create an interest of the value of Rs. 100 or upwards in immovable property within the meaning of section 17(1)(b) the test of value is the consideration stated in the instrument; *Nana v. Anant*, (1877) 2 Bom 353.

(iv) A deposit of title deeds with the creditor by the debtor with the intent to create a security implies in law a contract between the parties to create a mortgage and no registered instrument is required under section 59 of the Transfer of Property Act as in other case of mortgage. But if the parties choose to reduce the contract to writing, this implication of law is excluded by their express bargain and the document will be the sole evidence of its terms. In such a case the deposit and the document both form integral parts of the transaction and are essential in the creation of the mortgage. In such a case the document which constitutes

the bargain regarding security requires registration under section 17 of the Act as a non-testamentary instrument creating interest in immovable property where the value is Rs. 100 or upwards; *United Bank of India Ltd. v. Lakhram Sonaram & Co.*, AIR 1965 SC 1591.

(v) An instrument of partition of immovable property requires registration as it declares an interest in immovable property provided, however, the value of the interest so declared is Rs. 100 or upwards; *Siromoni v. Hemkumar*, AIR 1968 SC 1299.

(vi) But a writing which merely states 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; *Venkataram v. Yudhkondalu*, AIR 1958 AP 147.

(vii) The term 'consideration' used in this clause is a technical term. It implies that the person to whom the money is paid himself declares, limits or extinguishes his interest in immovable property in consideration of such payment; *Shidlingapa v. Chenbasapa*, (1819) 4 Bom 235.

(viii) A lease for one year containing an option to the tenant to renew for a further period of one year or any other term is not a lease for a term exceeding one year and does not require registration under this clause; *Boyd v. Kreig*, (1890) 17 Cal 548 dissenting from; *Bhobani v. Shibnath*, (1886) 13 Cal 113.

(ix) A lease for the life of the lessee is a lease for a term exceeding one year as it entitles the lessee to hold for more than one year if he lives so long. It is not a lease terminable at the end of a year or at the option of the lessor. It therefore requires registration; *Parstrotam v. Nana*, (1893) 18 Bom 109.

(x) Sub-section 2(i) of section 17 merely provided that nothing in sub-section 1(b) applied to a composition deed, but that did not mean that if a document required registration under another enactment, it was valid without registration; *Govind Ram v. Madan Gopal*, (1944) 721.A 76: AIR 1945 PC 74.

(xi) A consent decree purporting to create a gift requires registration under section 17(1)(a) and is not exempt from registration under section 17(2)(vi); *Kauleshwari v. Surajnath Rai*, AIR 1957 Pat 456.

(xii) The only test under the present clause is whether the receipt purports to extinguish the mortgage. If it does, it requires registration, but not otherwise. A receipt for payment of money under a mortgage (other than an endorsement on a mortgage-deed) issued by a mortgagee mentioning not only the payment of the full mortgage amount but also the extinction of mortgage requires registration; *Gurdial Singh v. Kartar Singh*, AIR 1964 Punj 141.

(xiii) A deed of adoption as distinguished from an authority to adopt does not require registration; *Vishwanth Ramji v. Rahibai*, AIR 1931 Bom 105: 128 IC 901.

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;
- [(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;

1. Ins. by Act 33 of 1940, sec. 2.

(e) wills; and

(f) all other documents not required by section 17 to be registered.

STATE AMENDMENTS

Andhra Pradesh:

In section 18, omit clause (c).

[Vide Andhra Pradesh Act 4 of 1999, sec. 3 (w.e.f. 1-4-1999).]

Gujarat:

Same as in Maharashtra.

[Vide Gujarat Act 11 of 1960, sec. 87, Gujarat A.L.O., 1960.]

Maharashtra:

In section 18,—

(i) in clause (e), at the end, omit the word "and";

(ii) after clause (e), insert the following clause, namely:—

"(ee) notices of pending suits or proceedings referred to in section 52 of the Transfer of Property Act, 1882;"

[Vide Bombay Act 14 of 1939, sec. 4 (w.e.f. 15-6-1939) read with Act 35 of 1958, sec. 2 (w.e.f. 28-4-1958).]

[Vide Maharashtra Act 20 of 1971, sec. 58 (w.e.f. 15-6-1972).]

Uttar Pradesh:

In section 18,—

(i) omit clauses (a), (b) and (cc).

[Vide Uttar Pradesh Act 57 of 1976, sec. 33 (w.e.f. 1-1-1977).]

(ii) in clause (c), omit the words and figures "and leases exempted under section 17".

[Vide Uttar Pradesh Act 19 of 1981, sec. 6 (w.r.e.f. 1-8-1981).]

Section 18A

Delhi:

Same as in Punjab.

[Vide G.S.R. 465, dated 20th March, 1965, published in Gazette of India, 1965, Pt. II, Sec. 3(i), page 499].

Himachal Pradesh:

Same as in Punjab.

[Vide Himachal Pradesh Act 2 of 1969, sec. 3 (w.e.f. 11-4-1969).]

Punjab, Haryana and Chandigarh:

After section 18, insert the following section, namely:—

"18A. Document for registration to be accompanied by a true copy thereof.— Notwithstanding anything contained in this Act, the registering officer shall refuse to register any document presented to him for registration unless such document is accompanied by a true copy thereof."

[Vide Punjab Act 19 of 1961, sec. 2 (w.e.f. 4-5-1961); Act 33 of 1966 sec. 89.]

Tripura:

After section 18, insert the following section, namely:—

"18A. Document for registration to be accompanied by a true copy.— (1) Notwithstanding anything contained in the Act, the registering officer shall refuse to register any document presented to him for registration unless such document is accompanied by a true copy thereof.

(2) The true copy referred to in sub-section (1) shall be neatly handwritten or printed or type-written or lithographed or otherwise prepared in such manner as may be prescribed."

[Vide Tripura Act 7 of 1982, sec. 2 (w.e.f. 1-1-1983).]