

- (d) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent;
- <sup>1</sup>[(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 <sup>2</sup>[State Government] may, by order published in the <sup>3</sup>[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.

<sup>4</sup>[(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) <sup>5</sup>[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 <sup>1</sup>[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 <sup>2</sup>[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
- <sup>3</sup>[(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.

<sup>4</sup>[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 where of 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; *Venkataraju 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).]

## COMMENTS

Non-registration of a will can assume importance only when it exists with some suspicious circumstances; *Celestine Silva Bai v. Jasphine Noronha Bai*, AIR 1956 Mad 566.

**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 to register the documents, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

## STATE AMENDMENTS

## 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), p. 499.]

## Himachal Pradesh:

Same as in Punjab.

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

## Kerala:

In section 19, omit the words "and also by a true copy".

[Vide Kerala Act 7 of 1968, sec. 3 (w.e.f. 22-2-1968)].

## Maharashtra, Gujarat:

For modification of section 19, see sub-section (3) of section 70D in Part XIA inserted in the main Act by the Indian Registration (Bombay Amendment) Act, 1930 (17 of 1930) (w.e.f. 4-9-1930); Bombay Act 35 of 1958; Act 11 of 1960, sec. 87.

Where registration is done by photogravure process, this section would have no application.—See sections 70C and 70D supra inserted by Bombay Act 17 of 1930.

## Punjab, Haryana and Chandigarh:

In section 19, for the words "a true translation", substitute the words "two copies of the true translation".

[Vide Punjab Act 19 of 1961, sec. 3 (w.e.f. 4-5-1961); Act 31 of 1966, sec. 89.]

## Orissa:

In section 19, omit the words "and also by a true copy".

[Vide Orissa Act 14 of 1989, sec. 2.]

## Rajasthan:

Same as in Punjab.

[Vide Rajasthan Act 11 of 1982, sec. 3 (w.e.f. 16-7-1982).]

## Tripura:

Same as in Punjab.

[Vide Tripura Act 7 of 1982, sec. 3 (w.e.f. 1-1-1983).]

## Tamil Nadu:

Same as in West Bengal.

[Vide Tamil Nadu Act 21 of 1966].

## West Bengal:

Omit the words "and also by a true copy".

[Vide West Bengal Act 17 of 1978, sec. 7 and Sch.].

## Section 19A

## Goa:

After section 19, insert the following section, namely:—

"19A. Documents presented for registration to be accompanied by true copies thereof.—

(1) No document shall be accepted for registration unless it is accompanied by a true copy thereof.

(2) The true copy referred to in sub-section (1) shall be neatly handwritten, printed, typewritten, lithographed or otherwise prepared in accordance with such rules as may be made in this behalf."

[Vide Goa Act 24 of 1984, sec. 2 (w.e.f. 5-12-1985).]

## Karnataka:

Same as in Goa.

[Vide Karnataka Act 55 of 1976, sec. 3 (w.e.f. 23-10-1976).]

## Kerala:

Same as in Goa.

[Vide Kerala Act 7 of 1968, sec. 4 (w.e.f. 22-2-1968).]

## Orissa:

After section 19, insert the following section, namely:—

"19A. Documents presented for registration to accompany true copies thereof.—

(1) No document shall be accepted for registration, unless it is accompanied by a true copy thereof.

(2) The true copy referred to in sub-section (1) shall be legibly handwritten, printed, type-written, lithographed, cyclostyled or otherwise prepared only on one side of the paper and in accordance with such rules as may be made in this behalf by the State Government, and shall contain a declaration in the prescribed manner that the same is a true copy of the document and its translation, if any."

[Vide Orissa Act 14 of 1989, sec. 3 (w.e.f. 19-9-1989).]

## Rajasthan:

After section 19, insert the following section, namely:—

"19A. Refusal to register.—Notwithstanding anything contained in this Act, the registration officer shall refuse to register any document presented to him for registration unless such document is accompanied by a true or photostat copy thereof."

[Vide Rajasthan Act 11 of 1982, sec. 4 (w.e.f. 16-7-1982).]

## West Bengal:

After section 19, insert the following section, namely:—

"19A. Document unless accompanied by a true copy thereof not to be accepted for registration.—Notwithstanding anything contained elsewhere in the Act or any other law for the time being in force, no document shall be accepted by the registering officer for registration unless it is prepared and presented, and accompanied by a true copy thereof in accordance with such rules as may be made in this behalf."

[Vide the Registration (West Bengal Amendment) Act, 1981.]

**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.