



# A STUDY ON COMPULSORY REGISTRATION OF IMMOVABLE PROPERTY ON SALE

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## ABSRTACT

Without reserve the prudent the enjoyment cannot be existing. Here prudent means “Registration”. These are considering as a’ **“Limbs of the immovable property”**. In order to enjoy the fruit of rights over the property absolute right is paramount. **“Nemo dat quod non habet”**<sup>1</sup> Latin maxim denoted, “No one can transfer better title than he has himself”.

Which means that a transferor can convey to the transferee only to the extent of the right he himself has on the property i.e. if the transferor holds the ownership then he can transfer the ownership upon the property. But if he has only the possessory right for enjoyment, then he cannot transfer the ownership which he does not hold upon the property.

Keywords: existing, ownership, transfer, title, property, over, registration.

## INTRODUCTION

Registration of immovable property, brings legal immunity to eradicate the litigation. Commonly registration office will be functioning all the part of district. Any fault in the registration, the registrar has power to cancel the registration. The purpose of registration of a document of transfer of immovable property is that after registration, the document of transfer becomes a permanent public record. A public record can be inspected by any person and a certified copy can be obtained from the office of Sub-Registrar. Registration is not permitted without attestation by the witnesses.

### Attestation - Definition:-

Witnessing the signature in a document; minimum two witness compulsory without legal disability; only after signed by the witnesses the instrument get executed. Attestation is defined under Section 3 of the Transfer of Property Act,

<sup>1</sup> <<https://www.lawteacher.net/free-law-essays/commercial-law/the-nemo-dat-quod-non-habet-rule-commercial-law-essay.php?vref=1>> accessed 16 November 2024

1882 (TP Act).<sup>2</sup> Therefore, for a valid registration, the documents to be duly executed, signed by both the parties and attested by atleast two witnesses for each party i.e. transferor and transferee.

It shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary. *And they actually need not to have seen when the executor signed the instrument.*

In **Kundal Lal v. Rofi Begum (1939)**, the Privy Council held the attestation would be valid if the lady behind the curtain could see the attesting witness if she wanted to.<sup>3</sup>

In **Abdul Jabbar v. Venkata Sastri (1966)**, the Supreme Court held that if a person puts his signature on a document for any other purpose, **without having any intention of attestation** then he is not an attesting witness.<sup>4</sup>

## Place of Registration:

In case of documents regarding immovable property, it shall be presented for registration in the office of Sub-Registrar within whose district the property or part of it is located (Section 28 of The Registration Act, 1908)<sup>5</sup>. In case of all other documents, they shall be presented: -

1. In the office of Sub-Registrar within whose sub-district the document was executed; or
2. In the office of any other Sub-Registrar under State Government where the individuals desire the document to be registered.

The Officer authorized to register a document may on a special cause being shown also go to the individual's private residence who desires to present a document for registration or deposit a will (Section 31 of The Registration Act, 1908).<sup>6</sup>

## WHO CAN APPLY FOR REGISTRATION?

In India, the **buyer and seller** must both sign a sales deed to be valid, and it must be registered within four months from the date of execution.

<sup>2</sup> Section 3 of TP Act 1882 Interpretation-clause; "attested", in relation to an instrument, means and shall be deemed always to have meant attested by two or more witnesses each of whom has seen the executant sign or affix his mark to the instrument, or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal acknowledgement of his signature or mark, or of the signature of such other person, and each of whom has signed the instrument in the presence of the executant; but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary.

<sup>3</sup> <https://www.drishtijudiciary.com/ttp-transfer-of-property-act/attestation>

<sup>4</sup> <https://www.drishtijudiciary.com/ttp-transfer-of-property-act/attestation>

<sup>5</sup> Section 28 specifies the place where a document relating to immoveable property should be registered. It has to be presented for registration in the office of the Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.

<sup>6</sup> 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.

The process for registering a sale deed can be done online or offline.

### Online registration of sale deed:

For registration of sale deed through online, the following procedures to be followed:

Register on the state's official website

- 1) Click on Document Registration
- 2) Enter the buyer, seller, and witness information
- 3) Select the type of property, tax district, registration district, and the nearest SRO office
- 4) Fill out the details to calculate stamp duty
- 5) Upload supporting documents, such as the sale deed, address proofs, and No Objection Certificates (NOCs)
- 6) Choose the payment details
- 7) Make an appointment to register the sale deed at the Sub-Registrar's office
- 8) Bring the required documentation to the appointment
- 9) The sub-registrar will verify the originals and stamp duty payment proof. If there are any discrepancies, the registration process will be refused.

### Steps Involved In Registering A Sale By Power Agent:

The registration Act 1908 Defines “Power of attorney”<sup>7</sup> as “A power of attorney (POA) is a legal document that gives someone the authority to act on behalf of another person. The person who receives the authority is called the agent or attorney-in-fact, and the person who is the subject of the POA is called the principal”.

#### <sup>7</sup> 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 recognised, namely,(a)if the principal at the time of executing the power-of-attorney resides in any part of [India] [Substituted by Act 3 of 1951, Section 3 and Sch., for "the States" (w.e.f. 1.4.1951).] 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 [resides in any part of India in which this Act is not in force] [Substituted by Act 3 of 1951, Section 3 and Sch., for "resides in any other part of the States" (w.e.f. 1.4.1951).], a power-of-attorney executed before and authenticated by any Magistrate;(c)if the principal at the time aforesaid does not reside in [India] [Substituted by Act 3 of 1951, Section 3 and Sch., for "the States" (w.e.f. 1.4.1951).], a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, [Indian] [Substituted by A.O.1950, for "British" .]Consul or Vice-Consul, or representative [\* \* \*] [The words "of his Majesty or" omitted by A.O.1950.] 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 Court.[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).] [Inserted by Act 3 of 1951, Section 3 and Sch.(w.e.f. 1.4.1951).](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.

## Steps to be followed in Registering a Power of Attorney:

### 1. Draft the POA

With the help of a legal expert, the principal should draft the POA, clearly defining the agent's responsibilities and authority.

### 2. Notarize the POA

The principal and witnesses should sign the POA in front of a notary public, who will verify the identities of the parties involved and stamp the document.

### 3. Submission of POA at the Sub-Registrar's office

The authorized agent should submit the POA and other relevant documents to the Sub-Registrar's office.

### 4. Complete formalities

The agent should complete the necessary formalities, such as paying fees, verifying documents, and signing the registration documents.

### 5. Receipt of the registered POA

Once the verification is complete, the agent will receive the registered POA, which is the legal proof.

### In the case of Alagappan vs The State Rep. By police (on 18 dec 2023 MHC)

Accused was the manager of actress Gouthami. Due to her illness, (cancer) she was not able to maintain her property in various place. Therefore, she gave power of attorney to her manager. He sold all the property of her without her knowledge for Rupees 5 crores worth. So court dismissed his anticipatory bail and directed to deep investigation on this previous transaction made by him.

## Supreme Court judgment on unregistered General Power of Attorney

### SHAKEEL AHMED V. SYED AKHLAQ HUSSAIN, (SC) 1009<sup>8</sup>

The Supreme Court ruled that an unregistered General Power of Attorney or Agreement to Sell cannot be used to transfer the title of an immovable property. The court also stated that a document that **requires compulsory registration under the Registration Act 1908** does not confer any legally enforceable right to approach a Court of Law.

### FEES

The prescribed fees for registration of documents shall be paid on presentation of documents (Section 80 of The Registration Act, 1908).<sup>9</sup>

<sup>8</sup> <https://www.livelaw.in/top-stories/no-transfer-of-title-of-immovable-property-through-sale-agreement-or-general-power-of-attorney-supreme-court-242892>

<sup>9</sup> Fees payable on presentation.

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



**FOR DOCUMENTS THROUGH WHICH PROPERTY IS CONVEYED:-**(Viz., Conveyance, Exchange, Settlement and Gift) <sup>10</sup>

When the value specified in the document does not exceed Rs. 10,000/-	Rs. 50/-
When such value exceeds Rs. 10,000/- but does not exceed Rs. 50,000/-	Rs. 100/-
When such value exceeds Rs. 50,000/- but does not exceeds Rs. 1,00,000/-	Rs. 150/-
When such value exceeds Rs. 1,00,000/- but does not exceeds Rs. 2,00,000/-	Rs.200/-
When such value exceeds Rs. 2,00,000/- but does not exceeds Rs. 5,00,000/	Rs. 300/-

**Property Registration Procedure In India:**

A step-by-step guide to property registration as follows:

**Step1:**

**Value estimation:** The first step in registering a property is to determine its market value using the area's circle rate. Registering a property safeguards a fair deal for both buyers and sellers. A precise estimate also makes calculating the necessary stamp duty and registration fees easier, making the process smooth and transparent.

**Step 2:**

**Stamp paper purchase:** Non-judicial stamp paper can be conveniently acquired through online portals or licensed vendors. Online options offer easy ordering from home, and quick delivery is another advantage. Licensed vendors provide physical stamp papers for immediate use.

**Step 3:**

**Deed drafting:** When registering property, it's important to draft the appropriate deed (sale, gift lease, etc.<sup>11</sup>) on the necessary stamp paper. This document details the terms and outlines the conditions. These are the conditions of the transaction, ensuring it meets all legal requirements.

**Step 4:**

**Sub-registrar visit:** A visit to the sub-registrar's office is critical for property registration details. The buyer, seller, and two witnesses **for each party** must be at the office. They must bring the necessary documents, such as the sale deed, identity proof (**aadhar card**), and passport-sized photographs. The sub-registrar will verify these documents, and both parties will provide their biometric data and signatures for authentication.

**Step 5:**

**Fee payment:** The registration fee for property transactions must be paid before registration. This fee typically varies by state and is calculated based on the property's value. The registration or transfer of property in Tamil Nadu is managed by the Registration Department as per the Tamil Nadu Registrations Act.

<sup>10</sup> <https://tnregipayment.gov.in/regnepay/DutyFees.jsp>

<sup>11</sup> [https://www.mpigr.gov.in/assets/documents/Stamp\\_Duty\\_and\\_Registration\\_Fee\\_Chart.pdf](https://www.mpigr.gov.in/assets/documents/Stamp_Duty_and_Registration_Fee_Chart.pdf)

*In Tamil Nadu, the charges for property registration are stamp duty at 7% on the market value of the property and registration fee of 1% of the value of the property. In case of property registration on account of the exchange of property, stamp duty at 7% on the market value of the higher value property and registration fee of 1% of the value of the higher value property.*

### Step 6:

**Document verification:** To ensure legal compliance and authenticity, the sub-registrar verifies documents such as the sale deed, identity proof, and tax receipts. After verification, a receipt is issued, confirming the property's registration in the buyer's name.

### Step 7

**Deed collection:** The registered sale deed can generally be collected from the registrar's office within a few days. It depends on the local office's efficiency and specific state regulations.

### Making the digital shift - Online property registration:

In this digital age, some Indian states offer online property registration services. While the availability varies by state, these portals typically allow stamp duty calculation, fee payment, and appointment scheduling. However, an in-person visit to the sub-registrar's office is usually required to complete the process. In Tamil Nadu this initiative was implemented in February 2018, with the aim of conducting all property registrations in Tamil Nadu through online means.

Under the new and improved online registration process, individuals are required to submit their documents electronically. These documents are then initially verified by the Junior Assistant, followed by a thorough review by the registrar. The registrar carefully examines each document to ensure accuracy and completeness before initiating the registration process.

One of the notable advantages for buyers is the flexibility to select their preferred date and time for registration. The entire process, from start to finish, usually takes around 10 minutes, with the registered documents being issued on the same day. The TN registration portal has gained a reputation for its efficiency and speed, as it is capable of handling the registration of up to 8 properties within a span of just 1 hour. Moreover, the portal has been designed with utmost consideration for security, ensuring a safe and secure environment for users. The interface is user-friendly, making it easy for individuals to navigate and complete their registration process with ease. In immovable property online in Tamil Nadu through the TNREGINET<sup>12</sup> portal:

**Upload documents:** Upload all required documents to the TNREGINET portal.

**Pay fees:** Pay the excess stamp duty and registration fee.

**Schedule an appointment:** Schedule an appointment with the registrar for the desired date and time.

**Complete registration:** On the appointment date, the parties involved and witnesses must be present to complete the registration at the registrar's office.

The TNREGINET portal is known for being efficient and secure. The entire process usually takes about 10 minutes, and the registered documents are issued on the same day.

<sup>12</sup> <https://tnreginet.gov.in/portal/>

## Understanding property valuation

Various valuation methods are used when registering a property. These include market value, circle rate, bank valuation, and construction agreement value. Each technique can influence the registration fees differently, making it essential to understand their implications.

## Factors influencing registration charges

Several factors can affect property registration fees. These include the type and age of the property, the nature of the transfer, the location, the owner's gender, and available amenities. For instance, commercial properties often incur higher fees than residential ones, while some states offer discounts for properties registered in a woman's name.

Regardless of gender or joint ownership, the standard applicable rate is 7%. Urban areas have higher rates than properties located in rural or semi-urban areas and are subject to government guidelines. Additionally, old properties have lower Stamp Duty than new ones.

## Recent changes and benefits of property registration

Recent changes have streamlined the registration process, making document copies immediately available due to computerization. It's important to note that unregistered properties now lack legal validity in court and cannot claim certain tax benefits.

Registering a property offers numerous advantages. It provides legal proof of ownership, aids in dispute resolution, prevents encroachment, and offers potential tax benefits. Moreover, it facilitates property mutation, which is crucial for government tax collection.

## Navigating property registration challenges:

While online registration has made the process more convenient, it is not without challenges. Government portals can be slow and prone to technical glitches. Despite the digital options, an in-person visit to the sub-registrar's office is often still necessary to complete the registration.

## The final step towards house property ownership:

Property registration in India is a crucial step in securing one's investment. Remember, thorough preparation is key. Each step, from verifying documents to understanding valuation methods, plays a vital role in ensuring a smooth registration process.

While the journey may seem daunting, it's essential to approach it with patience and diligence. After all, the reward of becoming a lawful property owner lies at the end of this process, with all the rights and benefits that come with it.

## Mandatory Registration of Instruments:

Section 17(1)<sup>13</sup> of the Indian Registration Act enumerates the following types of documents which are to be mandatorily registered:

As such, in view of the **Section 17(1) Indian Registration** the following documents are mandatorily registerable, if the value of the immovable property is **INR 100/- (Indian Rupees One Hundred)** and above namely:

- Gift Deeds,
- Sale Deeds,
- Conveyance Deeds,
- Settlement Deeds,
- Release Deeds,
- Partition Deeds,
- Lease Deeds of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent, and
- Power of Attorney coupled with interest creating rights in the immovable property.<sup>14</sup>

## Irfan Qureshi vs Up State Industrial Development ... on 18 October, 2024:AHC:166060

Agreement to sell immovable property situated in UP Must Be Registered to Create Right, Title or Interest the Allahabad High Court has clarified that in the State of UP, an agreement to sell immovable property (situated within the state) would also require compulsory registration to create any right, title, or interest in it.

The Court arrived at this conclusion through a combined reading of the state amendments made to Sections 17 (Documents of which registration is compulsory) and 49 (Effect of non-registration of documents required to be registered) of the Registration Act, 1908, and Section 54 (Sale) of the Transfer of Property Act, 1882.

Supreme Court of India in **S. Kaladevi vs V. R. Somasundaram and Others**<sup>15</sup> while dealing with validity of registration, held that:

"(a) A document required to be registered, if unregistered is not admissible into evidence under **Section 49**<sup>16</sup> of the Registration Act,

<sup>13</sup> (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  
 (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.

<sup>15</sup> <https://www.casemine.com/judgement/in/5609034de4b014971115b3be>

<sup>16</sup> 49. Effect of non-registration of documents required to be registered.

- No document required by section 17 [or by any provision of the Transfer of Property Act, 1882 (4 of 1882),] [Added by Act 21 of 1929, Section 10.] 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,



- (b) Such unregistered document can however be used as an evidence of collateral purpose as provided in the proviso to Section 49 of the Registration Act,
- (c) A collateral transaction must be independent of, or divisible from, the transaction to effect which the law required registration,
- (d) A collateral transaction must be a transaction not itself required to be effected by a registered document, that is, a transaction creating, etc. any right, title or interest in immovable property of the value of one hundred rupees and upwards,
- (e) If a document is inadmissible in evidence for want of registration, none of its terms can be admitted in evidence and that to use a document for the purpose of proving an important clause would not be using it as a collateral purpose and
- (f) A document required to be registered, if unregistered, can be admitted in evidence as evidence of a contract in a suit for specific performance".

### Documents required for property registration:

For registration of a sale deed, the following documents are mandatory.

1. Agreement for sale
2. Sale deed
3. Encumbrance certificate
4. Property tax receipts
5. No-objection certificate
6. Power of Attorney, if applicable
7. Stamp duty and registration fees payment proof
8. Occupancy certificate for new buildings
9. Completion certificate for under-construction buildings
10. TDS deduction certificate (applicable on properties worth over Rs 50 lakh))
11. PAN Card of buyer
12. PAN Card of seller
13. Aadhaar card of seller
14. Aadhaar card of buyer
15. Passport size photos of buyer and seller
16. ID proof of buyer
17. ID proof of seller
18. ID proof of witnesses
19. Address proof of buyer
20. Address proof of seller
21. Address proof of witnesses

unless it has been registered:

[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] [Added by Act 21 of 1929, Section 10.], [\* \* \*] [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 (4 of 1882)" omitted by Act 48 of 2001, Section 6 (w.e.f. 24.9.2001).] or as evidence of any collateral transaction not required to be effected by registered instrument.]

## Consequences of non-registration:

Consequences of non-registration includes,

- ❖ **Document inadmissibility:** Documents that are not registered may be inadmissible in court.
- ❖ **Legal validity** - Documents that are not registered may lose their legal validity.
- ❖ **Fraud and disputes** - Documents that are not registered may increase the risk of fraud and disputes over property rights.
- ❖ **Cost and Time Factors** - The cost and time involved in registering documents is another factor that leads to non-registration. Many people seek to avoid the stamp duty and registration fees by not registering their documents, hoping that the lack of registration will not become an issue. This, however, can lead to significant legal problems down the line, as the unregistered document will not be legally recognized.
- ❖ **Ignorance of Collateral Use** - Another practical issue is the lack of understanding regarding the collateral use of unregistered documents. While such documents cannot be used to establish rights in immovable property, they may still be admissible for other purposes, such as proving the existence of a contractual relationship. Parties to such agreements often assume that the document is completely useless if it is unregistered, leading them to abandon legal action when they may still have recourse.

## How can NRIs register a property in India?

### Choose the Immovable Asset

Non-resident Indians (NRIs) can purchase both commercial and residential real estate in India. However, it is important to highlight one specific exception: the acquisition of plantations, agricultural land, and other comparable holdings. In the instance where an NRI expresses interest in purchasing agricultural land, they must start the procedure by requesting additional rights. It's crucial to note that each application will undergo a meticulous individual review by the authorities.

### Select the Suitable Financing Route

Determine if you prefer purchasing the property through self-financing or a home loan. Numerous Indian banks extend home loans to NRIs, facilitating property acquisition without undue financial burden.

### Build Reliable Local Support

Seek support from a local authority, for instance by engaging the services of a skilled lawyer for legal intricacies and a knowledgeable real estate agent for property searches. This ensures a smooth and legally compliant property transaction process.

### Validate Property Ownership

Before concluding any transaction, confirm the property possesses a clean title and is devoid of legal conflicts. Engage in thorough due diligence and enlist the assistance of a legal professional to scrutinise all documentation.

### Obtain a No Objection Certificate (NOC)

If the property under consideration was previously held by an NRI, securing an NOC from the Income Tax Department is imperative. This certificate attests to the seller's fulfilment of all tax responsibilities.

### **Obtain a Power of Attorney**

Suppose an NRI is not physically present in India. In that case, they may designate a trustworthy representative to act on their behalf in managing the property registration procedure by giving them a Power of Attorney (POA). The POA should be registered with the Indian Consulate or Embassy of the country in which the NRI resides.

### **Verify Necessary Documents**

To ensure a smooth transaction and avoid any legal issues, NRIs must carefully review and confirm all required documentation. In India, the registration of a property typically requires the following paperwork (but is not limited to):

Title deed (named after the seller)

Approved plan

Occupation Certificate (if the building is ready)

Building Permit

Updated certificate of encumbrance

Share certificate (if the housing society is cooperative)

Registration under RERA (if applicable)

NOC from the society

Identity documents (passport, PAN/Form 60)

### **Prepare Sale Deed**

This legal document is what gives the buyer ownership of the property when it transfers ownership from the seller to the buyer. With their POA or a trustworthy representative in India, NRIs can prepare the sale deed. The sale deed needs to be registered with the local sub-registrar's office and executed on non-judicial stamp paper that has adequate value.

### **Pay Stamp Duty and Registration Fees**

NRIs are required by state government rules to pay stamp duty and registration fees. The registration fee is the cost of registering the sale deed with the sub-registrar's office, and the stamp duty is a tax imposed on the sale deed.

### **Obtain Completion Certificate**

A completion certificate is a legal document attesting to the fact that the building is finished and that it complies with all applicable municipal and approved regulations. NRIs are required to get a completion certificate from the relevant government or the local municipal corporation.

This process might differ slightly based on the individual criteria of distinct states in India. It is also advised that NRIs get expert legal advice and assistance to ensure a seamless and legally compliant property registration process.

Any property that an NRI purchases in India also has to be registered with the legal records. The NRI can follow the same process that is followed by resident Indians. However, in case an NRI is unable to be in India physically to register the property, then he can invoke a Power of Attorney (PoA), that will delegate some other person to transfer the property in the NRI's name.<sup>17</sup>

### **E-registration procedure in urban and rural areas:**

Since property in both urban and rural areas property comes under the jurisdiction of the same State Government and both types of areas are managed under a Tehsil (aka taluka or mandal) the e-registration of property (housing or commercial rental) is fairly similar. The process will only differ if the land is vacant or occupied (built upon).

For vacant land, valuation is done at current market price while for occupied land (with built-up properties like shops, flats, cottages, etc.) it is done on the market price as well as the gross investment utilised by a building. For instance, a single-storied house will be valued higher than a multi-storied house if it is a prime location. Otherwise, the latter commands a higher valuation. Also, leases of immovable property in urban areas command a higher stamp duty (6%), while in rural areas it is lower (5%).<sup>18</sup>

### **Benefits of land by E-registration:**

The usual resource challenges at Registrar offices are reduced drastically, allowing them to tend to more sensitive matters like disputes.

- (i) Consumer pays a registration amount which is relatively affordable.
- (ii) There is no longer any need to visit different offices to register a property.
- (iii) The details and documents pertaining to land records can be accessed online at any time.
- (iv) Transparency in the registration process increases significantly, thereby also rationalizing broker fees and negating the need for bribes to officials.
- (v) The software calculate the stamp duty on the basis of the stored data, and the duty can be paid online.
- (vi) A state-of-the-art system will reveal the current market price of any land located at any location within the State

### **TIME LIMIT FOR REGISTRATION OF THE DOCUMENT:**

- The document is required to be registered within 4 months period from the date of its execution.<sup>19</sup>
- If the same is not registered within 4 months period from the date of execution, it can still be registered within further period of 4 months from the expiry of first 4 months, on payment of penalty for late presenting the document for registration which can be imposed by the Registrar up to 10 times of registration fees.

<sup>17</sup> <<https://www.lawteacher.net/free-law-essays/commercial-law/the-nemo-dat-quod-non-habet-rule-commercial-law-essay.php?vref=1>> accessed 16 November 2024

<sup>18</sup> <https://www.morningstar.in/posts/34210/e-registration-of-land.aspx>

<sup>19</sup> Section 23 of registration act 1908 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.



- Even after expiry of 8 months from the date of execution of document, if the parties want to register it then fresh Deed on payment of stamp duty at current market value is to be prepared and sign by both the parties to such document. In such case the document which is subject matter of registration should be attached as annexure to the deed of confirmation. It is better to pre-check in respect of old document the proper fact/procedure, payment of duty and penalty, if any thereon before the registration of such original/fresh document. Many times such old document to be adjudicated through collector and then the Joint Sub-Registrar registers it, However, one has first pre-check the matter with joint sub-registrar or concerned stamp duty or registration office or collector offices in detail.
- If the vendor dies after signing the document but before registration of such document, in such case it is difficult to complete the formality of registration within 4 months of statutory time limit or during the additional time limit of 4 months. In cases of death of vendor the legal heirs of deceased has to comply with the registration formalities. In such matter two options are available with the purchaser/transferee.

### Property registration in 2024: Time limit and charges

Documents that have to be mandatorily registered, should be presented within four months from the date of their execution, along with the requisite fee. In case the time limit has expired, you can make an application to the sub-registrar for condonation of the delay, within the next four months and the registrar may agree to register such documents, on payment of a fine that may be up to ten times the original registration fee.

Earlier, the documents that were presented for registration, would be returned to you after a period of six months. However, with computerization of the offices of the sub-registrar, the documents (bearing the registration number and proof that the documents have been registered by the registrar) are scanned and returned to you on the same day.

In **Ram Saran Lall and others Versus Mst. Domini Kuer and others**<sup>20</sup>, it was held that it is well settled law that transfer of immovable property whose value is exceeding Rs.100/-(Hundred) requires compulsory registration under section 17 of Registration Act 1908. Title in immovable property valuing more than Rs.100/-(Hundred) passes only after registration of Conveyance deed before learned Sub-Registrar.

### Conclusion

Thus due to the compulsory registration of all immovable property, the ownerships are secured by the government. In order to scrutinize the litigations, like..., Land grabbing, encroachment, double documentation, tax evasion, encumbrance issues, patta issues. In Chennai the recent, revision in guideline values across Tamil Nadu significantly boosted revenue for the state's registration department, with an additional 1,222 crore collected in the first seven months of the current financial year compared to the past year. The number of tokens issued for land registration in Tamil Nadu depends on the number of sub-registrars at the office:

One sub-registrar: 150 tokens

Two sub-registrars: 300 tokens

Heavy registration offices: 16 tokens per office

In addition to regular tokens, 10 additional tokens are allotted as tatkal tokens. The tatkal fee is ₹5,000 per token, and the window for tatkal fees is open two months in advance.

<sup>20</sup> AIR 1961 SC 1747

Even though the funds are arising, some of the rivals of the particular categories, are not step into forward to do the above said procedures. So need more efficient regulations in compulsory registration of immovable property.

