

Registration of Documents

Financial and economic growth is the foundation of any developing economy. The process of registration of documents plays an important role in generating revenue for the Delhi Government. Registration means recording the contents of a document with a Registering Officer and preserving the copies of original documents. The documents are registered for the purpose of conservation of evidence, assurance of title, publicity and prevention of fraud. The Registration process encompasses sub-functions such as receipt generation, valuation, and recovery of evaded stamp duty, refund of excess stamp duty, adjudication and issuing notices. Also, registration helps an intending purchaser to know if the title deeds of a particular property have been deposited with any person or financial institution for the purpose of obtaining an advance against the security of that property. Documents relating to transactions of immovable property are required to be compulsorily registered.

Payment of requisite stamp duty completes the registration of documents. It is a type of tax that is paid for the transaction performed by way of document or instrument under provisions of the Indian Stamp Act, 1899. It is payable on instruments and not on transactions. The payment of proper stamp duty on instruments bestows legality on them. Such instruments get evidentiary value and are admitted in evidence in courts of law. The stamps have to be purchased in the name of one of the executors to the instrument.

Registration Act, 1908

Registration of documents is done under provisions of the Registration Act, 1908. The main purpose of designing the Act was to ensure information about all deals concerning land, so that correct land records could be maintained. The Act is used for proper recording of transactions relating to other immovable property also.

Documents relating to immovable property need compulsory registration like Sale/ Title Deed, Conveyance Deed, Lease Deed and Agreement to Sale. Documents like Will Adoption Deed, General Power of Attorney, Trust Deed, and Partnership Deed do not require compulsory registration.

The document should be submitted for registration within 4 months from the date of execution. If several persons are executing the document at different times, it may be presented for registration within 4 months from the date of each execution. Documents relating to immovable property should be registered in the office of the Sub-Registrar (SR) of the sub-district within which the whole or some portion of property is situated. All persons executing the document or their representatives, or agents holding power of attorney, must appear before the registering officer. They have to admit execution and sign the document in the presence of the Registrar.

If a document relates to transfer of ownership of immovable property, passport-size photographs and fingerprints of each buyer and seller of such property has to be affixed to the document. These documents are authenticated by the Registering Officer and admit execution of documents, registration fee is paid, and documents are registered. After registration, the document will be returned to the person who presented the document and the duplicate pasted in registers maintained by the SR for official records.

If a document which is required to be registered under Section 17 or under provisions of Transfer of Property Act, 1882 is not registered, the effect is that such an unregistered document does not affect any immovable property comprised therein, and cannot be received as evidence of any transaction affecting such property. Thus, the document becomes redundant and useless for all practical purposes.

General Procedure for Registration

The office of the Sub-Registrar (SR) performs the function of registering documents pertaining to property, adoption and wills under the Registration Act, 1908. The SR is the representative of the District Collector (DC). It is the duty of SR to entertain documents for the

purpose of registration; so that documents related to property, sale and purchase, rent, adoption, inheritance, and gifts have legal standing in a court of law. For this purpose, a registration fee is collected. Thus it is one of the most important sources of revenue in Delhi, collecting as much as an average of Rs 156 lac every year. Also, some documents are required to be produced in printed form on stamp paper, thus further serving the purpose of collecting revenue for the Delhi Government. Broadly speaking, the process of registration consists of three steps:

- Purchase of the requisite amount of stamp paper (if required) as stipulated by the stamp duties (Appendix III). For small values (up to Rs 40,000) the requisite stamp paper can be purchased from an authorised stamp vendor. For larger amounts, the purchasing party has to deposit the amount needed in the bank at Tis Hazari and collect the stamp paper from the office there.
- A licensed deed writer, a lawyer or an advocate can write out the document. It has to be printed on either the stamp paper or on ordinary paper, as stipulated (Appendix III). The last step involves going to the office of the concerned SR and getting the document registered.

After this, the document becomes legal and has standing in a court of law. For purposes of document registration, nine offices have been set up, one in each of the nine districts of Delhi. These are at Kashmere Gate, Seelampur, Asif Ali Road, INA, Mehrauli, Kapashera, Janakpuri, Pitampura and Geeta Colony. There are 20-30 types of documents that can be registered and all are classified into 3 books as follows:

Book I: Deeds concerning rent, sale, gift, partition, and title transfer

Book III: Power of Attorney

Book IV: Will and Adoption Deed

Documents to be Submitted for Registration

- Document required to be registered (in duplicate) signed by two

witnesses

- Two passport-size photographs of both parties
- Proof of identification of each party and witnesses. This can be an election identity card, passport, identity card issued by Government of India, semi-government and autonomous bodies or identification by a gazetted officer
- In case the property is/was under a lease from DDA, L&DO, MCD, Industries Department, Labour Department of Delhi Government, and permission of the lessor for registration of the document.
- No Objection Certificate (NOC) under Section 8 of the Delhi Land (Restriction and Transfer) Act, 1972 from the Tehsildar of the Sub-Division of the District to the effect that the property is not under acquisition.
- Income Tax Clearance Certificate in prescribed proforma 34A, under Section 230 of Income Tax Act, from the concerned Income Tax Officer, where the transaction exceeds Rs 5 lac
- Permission from the appropriate authority in prescribed proforma 37 I, where the transaction exceeds Rs 50 lac under the provisions contained in Section 269 of Income Tax Act, 1961.

Procedure

The document is submitted to the Reader for scrutiny. After scrutiny, the Reader indicates the registration fee required on the document itself. The registration fee is deposited with the cashier against a receipt. After depositing the fee, the documents are presented before the SR by the parties in accordance with Section 32 of the Registration Act, 1908. Endorsements are made under Section 52, 58 and 60 of the Act on the document after completion of formalities before SR. Delivery of document is done on production of the receipt issued by the cashier in respect of the document at the time of presentation.

Presentation is an important aspect of the process of registration. According to Section 32 of the Registration Act, 1908, every document to be registered is required to be presented at the Registration Office

by the same person who is executing the document or a person who has been duly authorised to represent the owner of the document through power of attorney. Persons who are in jail under civil or criminal process, those exempt by law from personal appearances in court and those who, by reason of bodily infirmity, are exempted from attending the presentation.

Common Problems during Registration

SRs and the general public encounter a number of problems during the process of registration.

- **Document acceptance and delivery**

Document acceptance and more importantly, delivery is the biggest problems faced by applicants. Getting a certified copy of registered documents is a problem, since copies are retained in paper form and 'stored' for reference, making them difficult to trace. Duplicate documents are pasted in the record books for purposes of storage, and this function is contracted out. However, the contract given by the Delhi government has expired, and thus it has been discontinued for the past year. At the SR office, Asif Ali Road, it was found that document delivery took 2-3 months and people had to come to the office several times to obtain it. Government officials claim that it takes at most a week, but there is a complete contradiction between the SR's and applicants' claims about delivery of documents.

- **Storage**

The registered documents are stored for the purpose of record in paper form, thus creating a storage problem. It is one of the most common problems faced by all the nine offices of Delhi. In fact, the SR office at Kashmere Gate is storing documents from the 19th century! Shortage of space and ill-planned design of offices show their effects in the innumerable problems faced by applicants.

- **Lack of information about procedures**

Most applicants are unsure about the procedure and the number of

supporting documents that are required to be produced during the submission, making consultation of lawyers necessary. The Delhi Government website fails to provide adequate information for the process.

- **Lack of circle rates**

The basis for valuation of property that needs registration is very ambiguous. The property is scrutinised and evaluated by the SR, thus leaving a lot of space for confusion and discretionary powers to the SR. Also, it gives a chance to people to undervalue their property in order to pay less stamp duty.

- **Presence of unlicensed deed writers and touts in and around the Office**

All SR offices teem with lawyers and advocates, licensed and unlicensed, who have set up shop in and around the premises. They help applicants through the process, from drafting the document to getting it registered. In the SR office at Seelampur, the parking lot has been taken over by 'lawyers.' Some SR offices fall in areas that are relatively poor. Here, most applicants do not have their own lawyers and get their deeds written at the office premises.

- **Overload of documents for registration**

Some of the larger SR offices like Janakpuri, Pitampura and Seelampur face the problem of overload of documents for registration. The Janakpuri office deals with a huge number of documents--about 500-600--everyday. The offices don't have enough infrastructure and staff to cope with such influx, thus creating the problem of touts and corruption. There have been some suggestions to split these offices into sub-zonal offices to increase efficiency - however, nothing has been done to this effect. Table 1 substantiates the problem.

- **Problems relating to background documents**

One of the other very common problems faced by the applicants is difficulty in procuring background documents. The No Objection

Table 1: Average revenue, average number of documents registered & the average number of documents pending in a month in each SR office.

<i>Office</i>	<i>Location</i>	<i>Average Revenue</i>	<i>Average Number of Documents Registered</i>	<i>Average of Documents Pending</i>
SR I	Kashmere Gate	1,10,441	2,710	256
SR II	Janakpuri	3,93,518	9,837	4,917
SR III	Asif Ali Road	1,49,872	5,033	22
SR IV	Seelampur	1,15,797	7,674	732
SR V	Mehrauli	Not Available	3,241	262
SR VI	Pitampura	Not Available	13,192	7,821
SR VII	INA	1,42,844	1,709	4
SR VIII	Geeta Colony	1,40,537	4,619	69
SR IX	Kapasedha	1,14,893	2,175	0

Source: Office of the Sub-Registrar

Certificate (NOC), which has to be obtained from the SDM's office, is very hard to get. Major problems occur in areas that were once unauthorised residential colonies, now regularised by law. This consists of 2,000-odd Delhi colonies. All these colonies do not need an NOC, but the SRs still insist on an NOC for property here. Even in case of genuine requirements, the procedure is rarely followed, and the applicant has to make innumerable trips to the tehsildar to get an NOC. Also, in case of DDA conveyance deeds, the procedure at the DDA office is extremely longwinded, which further prolongs the registration process.

- **Space problems**

Most offices, barring the computerised ones are extremely short of space. There is hardly any waiting area for applicants in most cases, and even working area for officials is extremely limited. The SR office is the only source of information, and thus it teems with people looking for information. No information is provided via the Internet, as done by most other states of India.

- **Financial irregularities**

According to the CAG report 2004, scrutiny of the records of the

Delhi Treasury as well as of the nine SR offices indicated that the value of documents registered was higher than stamp paper sold for them as shown in Table 2. There is variation in the value of stamp paper not sold by Delhi Treasury or by deposit of the difference of stamp duty through challans as per the Indian Stamp Act, 1899.

Table 2: Variation in the Value of Stamp Paper (Rs in crore)

Year	Value of Stamp Paper Sold by Treasury	Value of Documents Registered in SR offices	Shortfall (-) Excess (+)
1999-2000	104.06	94.65	(-) 9.41
2000-01	145.66	171.65	(+) 26.09
2001-02	231.79	251.73	(+) 19.94
2002-03	362.70	344.46	(-) 18.24
Total	844.21	862.59	(+) 18.38

Source: Government of NCT Delhi. 2004. CAG Report

Also as per rules, the stamp vendor shall write in his own hand, at the time of sale, on the back of every non-judicial or court fee-impressed stamp which he sells, the serial number, date, and details of the purchaser for whom the stamp is purchased. However, there have been cases where stamp paper worth Rs 1.05 lac could not be verified due to absence of treasury issue number and date.

There are also cases of misuse of power delegated under the Act. In case the document is not duty stamped and has been brought to the notice of the Collector of Stamps, the Collector can either impound the document or receive such amount according to Section 41 of the Indian Stamps Act, 1899. However, misuse of power was observed in lots of cases, leaving scope for loss of revenue arising from incorrect certification of receipt of correct value of stamps.

Other irregularities noticed by the CAG were breaking rules governing maintenance of records, failure to cancel licenses of vendors that are involved in criminal offences and non-maintenance of vend registers. Ineffective internal control by the internal audit wing of the Finance Department of Delhi Government is also responsible for such inconsistencies.

Experiences of the States

All problems in the document registration process suggest that there is a need for a major overhaul in order to increase efficiency, transparency and accountability. States like Karnataka, Kerala, Andhra Pradesh and Maharashtra have a more accessible and efficient system of document registration. The main aim is to make all information readily available to people through information technology as well as maintain standard procedures of evaluation of property.

Most states have fixed circle rates for different areas keeping in mind the districts, the SRO, the blocks, roads as well as whether the property is on agricultural/ non-agricultural land. Discretionary powers of the SR have been removed and market value is displayed on the website of the Department. Most public utility forms, addresses of relevant SR offices, details of stamp duty to be paid and stamp vendor details are available on the Internet. In such a case, people can execute the whole process by themselves, thus bringing more awareness and transparency in the system.

Most of the southern states use customised software that is designed to eliminate the maladies of the registration process through electronic delivery of services. Andhra Pradesh has a system of providing information through a chain of cyber cafes known as Public Kiosks Services. There are e-seva centres that provide services like Market Value Assistance and document writing. The USP of these services is that there is no need for the citizens to approach middlemen or public servants of the Department. It not only helps in curbing corruption on the part of department officials but also prevents people from undervaluing their property with the intention of paying less stamp duty.

Most states copy the registered documents electronically for record purposes to cope with the problem of storage. One of the other benefits is that the applicant obtains the original documents within few hours of the presentation.

Reforms

- Initially, duplication of documents and pasting them in record books were contracted out to one agency in Delhi that deputed its

people to each SR office. The contract expired more than a year ago and hasn't been renewed since. A better solution would be to introduce the concept of electronic copying or scanning which can then be contracted out. This would help in reducing problems of storage and document delivery.

- Circle rates for the evaluation of property should be fixed. It would not only make the SR's function easier but also less controversial. Once property rates are fixed, valuation would be easier and stamp duty evasion would definitely lessen. One of the easier ways would be to peg circle rates at the same rates that are used to calculate property rates. The Unit Area Method is working well, with the rates for valuation of property being adjusted for age, occupancy, use and structure. This will reduce problems of discrepancy and undervaluation.
- Computerisation and use of information technology is one of the most important reforms required. Complete description of documentation of the entire process, details of various rates of stamp duties, jurisdiction of the nine offices and relevant SR offices, formats of deeds and the required supporting documents should be made available online.
- Most of the offices are non-computerised and face high inflow of documents everyday. An easy way to solve the problem without increasing the number of government official would be to contract out front office functions like reading documents, entering data and keeping records, thus leaving the SR with the responsibility of simply signing the documents.
- The process of obtaining No Objection Certificate (NOC) needs improvement for making document registration easier. One solution would be to make the Gazette that was issued during the regularisation of these erstwhile-unregularised colonies available to each SR. This would make things clearer to some people, if not all.
- The process of buying stamp paper can be completely eliminated, as has been done in Karnataka. Banks can be associated with each SR office, in which the payment of stamp duty is done according to

the valuation of the property based on circle rates and the kind of document being registered, and a receipt issued for the same. This definitely reduces the discretion of SRs and reduces chances of stamp duty fraud.

- SRs do not enjoy much freedom in taking small administrative decisions, which creates a lot of day-to-day problems in smooth working of the office. They should be given training for the job and should be briefed about procedures and discretionary powers. They should know the laws that pertain to registration. Working conditions in offices should be improved. Constructions below road level, roads blocked by deed writers, absence of parking space, lack of basic amenities and seating areas, lack of telephone connections are some of the problems that need immediate improvement.
- Nine SR offices should be evaluated on a quarterly basis, and the results of the evaluation should be made public. The evaluation should be based on the average number of documents registered, pending, revenue generated and number of hours spent by the applicants in getting their documents registered. The evaluation process and its transparency would encourage efficiency and competition that could act as an incentive for them to deliver better.
- The Delhi Treasury should be computerised, enabling linkage of issue of stamps by the Treasury Officer with registration of the documents in the SR offices.
- Functioning of the Delhi Treasury should be decentralised for purpose of both sale of stamps as well as registration of documents facilitating close monitoring and control. This could be accompanied by instructions requiring registration of documents with specific registrars depending on location of the property, residence of the executants or subject matter of the registering documents.
- A system of coding and numbering of stamps making them state specific to enable monitoring of sale of stamps and linking with the registered documents for verification of their authenticity when required would be a good measure in ensuring safety of stamps. There also should be close monitoring of stamp vendors and it

should be ensured that all necessary records are duly maintained and periodically inspected.

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13 sub-registrars transferred

