

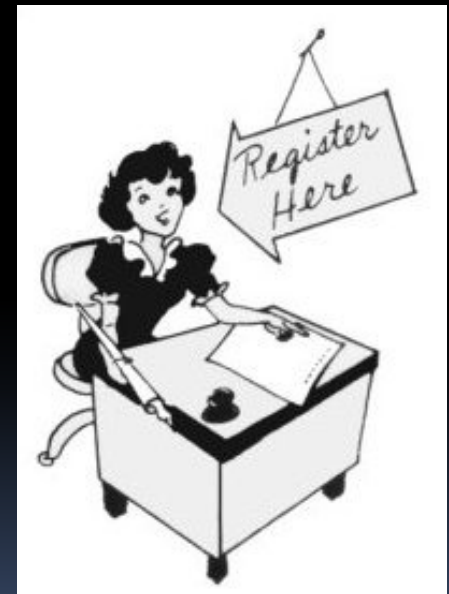
# Indian Registration Act, 1908



# Registration

## What Docs must be Registered [S. 17]

- Any Gift of immovable property;
- Transfer of immovable property valued at Rs. 100/- or more.
- Lease of immovable property exceeding 1 year
- Decree or order of Court with regards to immovable property
- Agreement for deposit of title deeds for loan/debt
- Sale certificate under any recovery act
- Irrevocable Power of Attorney for transfer of immovable property



# Registration

## **Filing of Court Decrees/Attachment Orders (S. 89A)**

- Any Court Order affecting any right in immovable property must be intimated to the jurisdictional Sub Registrar where the property is located
- Any Certificate of Sale or Written demand before attachment of defaulter's immovable property issued by a Revenue recovery officer must also be similarly intimated.
- Withdrawal of such written demand, lifting of attachment of property or the sale of property must be intimated

# Registration

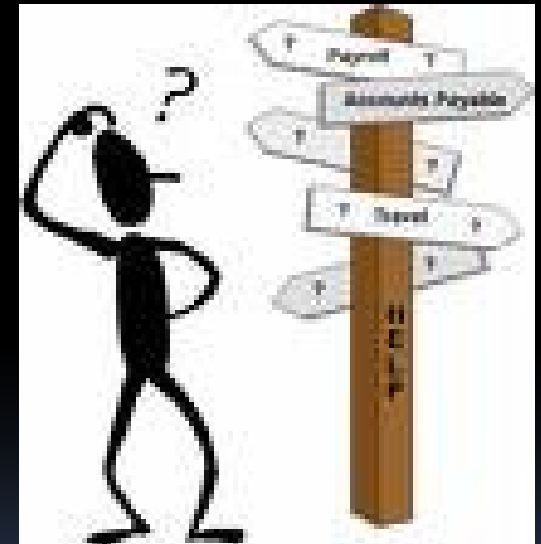
## Registration of Mortgages (S. 89B)

- Intimation of equitable mortgage to be filed by Mortgagor within 30 days with Registering Authority
- Details must include Name & Address of Mortgagor & Mortgagee, date of mortgage, amount received under mortgage, rate of interest, list of docs deposited & description of property.
- Future transactions of property void if intimation not filed
- Third party entitled to refund of monies + 12% interest and compensation
- Such monies to be charge on interest of Mortgagor in property
- Penalty includes jail term of 1 to 3 Years plus fine

# Registration

## Compulsory Registration of Leases

- Section 17 of RA states that only leases of immovable property for any term exceeding one year must be registered.
- Proviso to Section 107 of TOPA states that **written leases** upto 1 year must be registered unless otherwise notified by the State Govt in the Official Gazette.
- Lease includes an agreement to lease



# Registration

## When to Register [S. 23, 25]

- Normally within 4 months from execution date
- In case of Multiple Executants, within 4 months from date of each execution
- If executed abroad, within 4 months of it's arrival in India

Note : These limits do not apply to a will which may be presented at any time.

# Registration

## Fine for late registration [S. 25]

<b>Delay</b>	<b>Fine</b>
1 month	2.5 Times
2 months	5 Times
3 months	7.5 Times
4 months	10 times

# Registration

## Supreme court Decision

- SC judgment in Suraj Lamp & Industries case critical.
- Registration Act must be followed strictly w.e.f. Oct 11, 2011 (date of above order)
- Unregistered documents will not be permitted to be 'regularized' in any manner whatsoever.

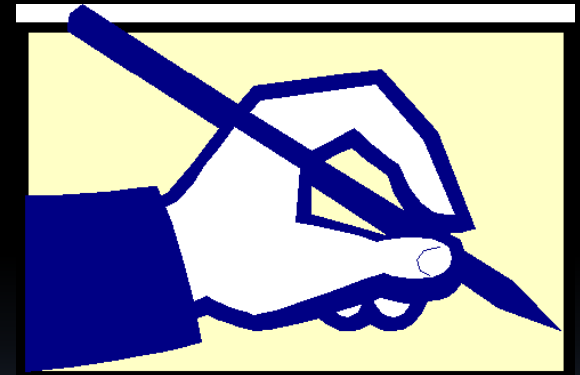




# Registration

## Registration of Declaration deeds

- Practice of Registration of Confirmation/Declaration Deeds with old agreement signed over 8 months ago as Annexure was rampant
- Maharashtra Govt vide circular No. 617/2011/30808 dated 22/12/2011 has discontinued registration of such documents
- Old transactions can only be registered under current dated deeds.



# Registration

## Transfer in Registered Society

- Section 41 of Maharashtra Co-op Societies Act, 1960 grants specific exemption
- **Resale** of Flats in Registered Society need not be Registered
- **Gifts** of flats however must be registered



# Registration

## Documents required for Registration

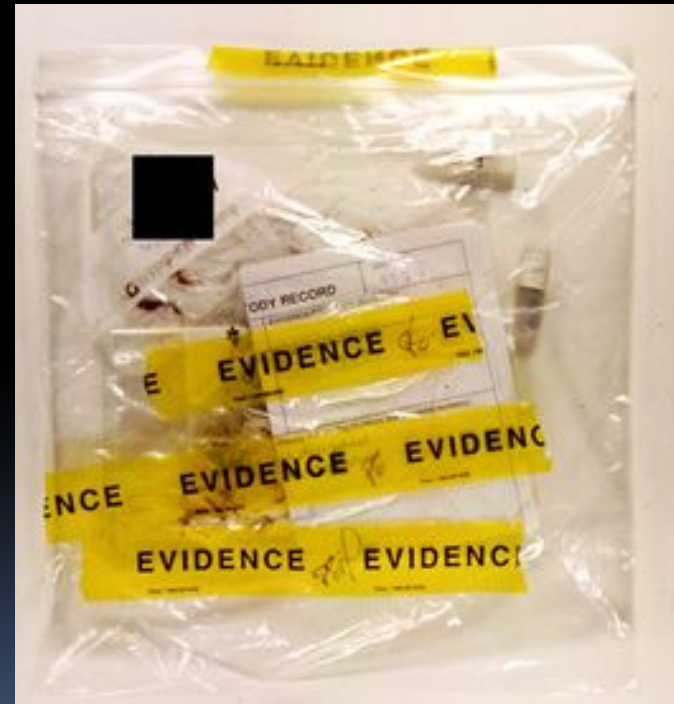
- Property card (Not required in Mumbai City)
- Occupancy Certificate
- Municipal Tax Bill (in the absence of OC)
- PAN Number of all parties or Form 60/61
- Letter from Society
- Photo and Thumb Print of all parties



# Registration

## Consequences of Non Registration

- Document does not affect property
- Document cannot be received in evidence
- S. 53A of TOPA can't be enforced



# Registration

## Loss of Documents

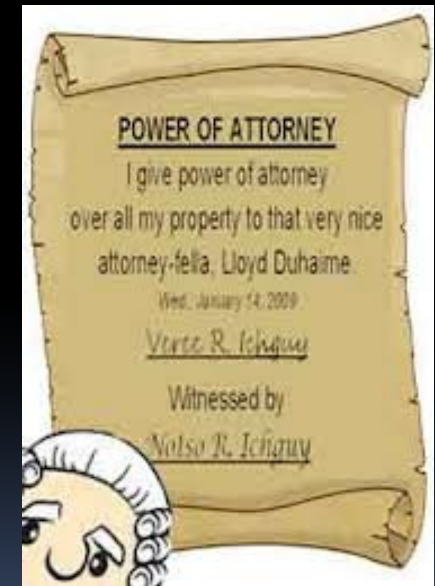
- File FIR with Police Station
- Obtain Advocate's "No Claim received' Certificate
  - Issue Public Notice
  - Conduct Search at Sub Registrar's office
  - Apply for Certified copy from SRO
- Obtain Duplicate Registration Receipt



# Registration

## Power of Attorney

- Sub clause (h) to S. 17(1) mandates compulsory registration of irrevocable power of attorney w.r.t. transfer of Immovable property
- S. 33 clearly specifies three types of POA's which are recognized for registration. Any other type of POA would be invalid i.e. the title itself would not pass



# Registration

## Recognized POA's

- (a) POA executed before Jurisdictional Sub Registrar where Principal resides in a part of India where Act is in force at the time of execution
- (b) POA executed before Magistrate where Principal resides in a part of India where Act is NOT in force at the time of execution
- (c) POA executed before Notary Public, Court, Judge, Magistrate, Indian Consul or Vice Consul, or representative of Central Govt. where Principal does not reside in India



# Registration

## Important Points

- Registration is prima facie proof of facts stated in document (s. 60)
- Registered Document is a public document open to all to inspect. Normally, a person is deemed to have notice of a registered document





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