

**STAMP DUTY
&
REGISTRATION**

NARESH PAI

STAMP DUTY

**BOMBAY STAMP ACT,
1958 – WEF-16-2-59**

Indian Stamp Act, 1899

- **It is a Type of Tax**
- **Payable on Instruments**
- **BSA- Doc. executed in Mah.**
- **Doc. used in Mah.**



INSTRUMENTS STAMPED U/ BSA

- ▶ AGREEMENTS
- ▶ CONVEYANCES
- ▶ EXCHANGES
- ▶ GIFTS
- ▶ DEED OF PARTITION
- ▶ CERTIFICATE OF

SALE



INSTRUMENTS STAMPED U/BSA

- POWER OF ATTORNEY
- DEED OF SETTLEMENT
- LEAVE AND LICENSE
- LEASE DEED
- PARTNERSHIP DEED
- MORTGAGE DEED

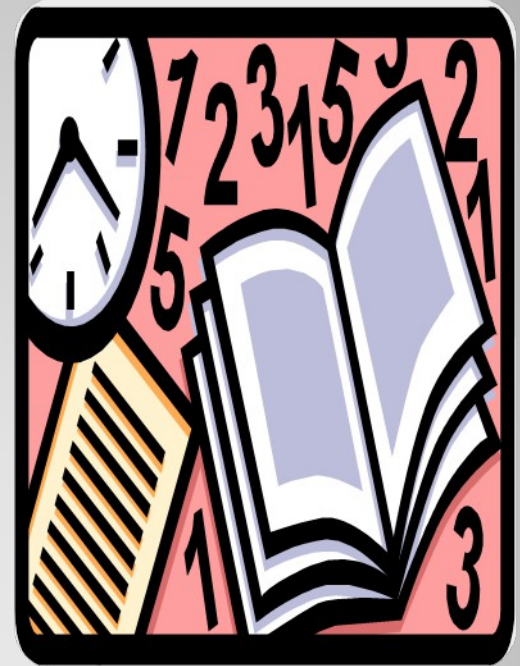


INSTRU. STAMPED U/ ISA

- **Bill of Exchange/Lading** - Art - 13/ 14
- **Debenture** - Art - 27
- **Letter of Credit** - Art - 37
- **Policy of Insurance** - Art - 47
- **Promissory Note** - Art - 49
- **Proxy** - Art - 52
- **Receipt/ Transfer** - Art - 53/ 62

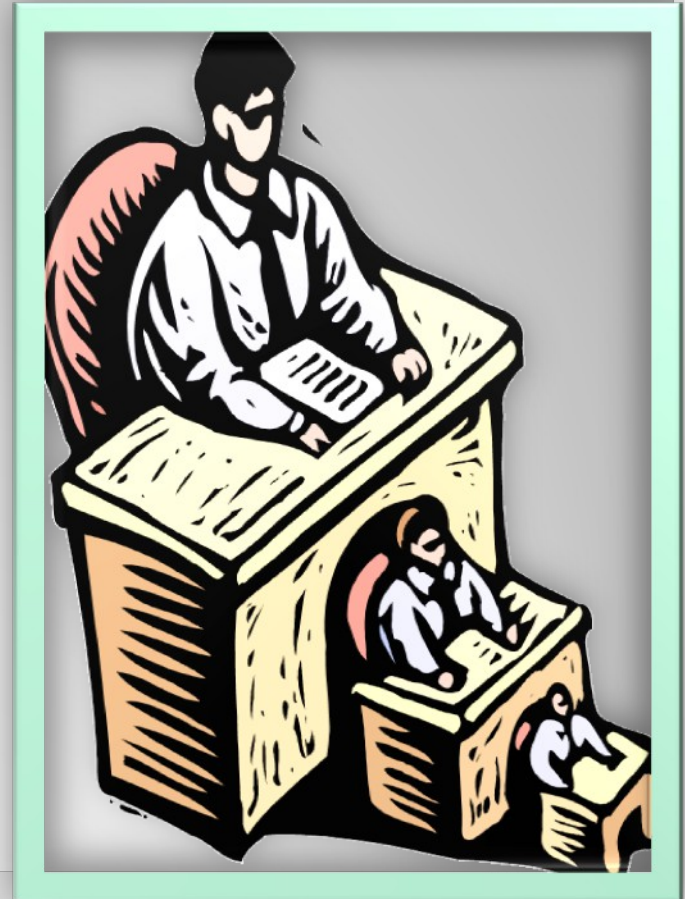
ADJUDICATION OF INSTRUMENTS

- **APPLY U/S 31.**
- **FILE ORIGINAL INSTRUMENTS**
- **TWO XEROX OF DOC.**
- **AFFIDAVIT -NOTORISED**
- **FEEES RS.100/-**
- **ATTEND HEARING**
- **MAKE THE PAYMENT**
- **GET CERTIFIED ON THE DOC.**



APPEAL ON ADJUDICATION

- APPEAL CAN BE FILED AGAINST ADJUDICATION U/S 53.
- WITH DY. I. G. R
- WITH I.G.R
- WITH HIGH COURT
- SUPREME COURT



PENALTIES

- **U/S 39 – 2% P.M OR MAX. 400%**
- **PROSECUTED U/S 42**
- **AUTHORITY U/S 33 TO SEIZE AND IMPOUND INSTRUMENTS**
- **ANY OTHER PERSON TO DEFRAUD GOVT.- U/S 62.**

WRONG INFORMATION

- **STAMP DUTY WAS NOT PAYABLE BEFORE 1985**
- **STAMP DUTY IS PAYABLE BY LAST FLAT PURCHASERS ONLY**
- **EACH MEMBER TO PAY STAMP DUTY ON CONVEYANCE**
- **SOCIETY REQUIRED TO PAY STAMP DUTY ON OPEN SPACES SUCH AS GARDEN, TERRACE AND EVEN COMMON PASSAGE ETC.. ETC**

Important Information

- **The Bombay Stamp Act, 1958 Schedule I Art.5**
If on adjustment, no duty is required to be paid, then the minimum duty for the conveyance shall be ¹[rupees One Hundred]
- **Irrespective of the size, area location of the society**
- **Remember Non Stamped Agmt will not be admitted as evidence in any Court of Law**
- **U/s 32 A- Unpaid Stamp Duty Agreement, Govt Official can impound the Agreement**
- **U/s 46 – Recovery by Auction of Property**

VALUATION METHOD

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graph TD; A[VALUATION METHOD] --> B[After 10.12.1985]; A --> C[Before 10.12.85];
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After 10.12.1985

1. Valuation done as per the Date of agreement
 2. Role of Stamp Duty as on agreement
 3. Penalty 2 % per month Maximum 400%
- Same is accepted by the public due to amendment & judgment.

Before 10.12.85

1. Different Valuation system is adopted under different situation

VALUATION METHOD

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graph TD; A[VALUATION METHOD] --> B[Before 10.12.85]; A --> C[Unregistered]; B --> B1[1. Old Value]; B --> B2[2. Present Rate]; C --> C1[1. Up to 4th July 1980 agreement value old Rate & 400% penalty]; C --> C2[2. Between 4th July 1980, 10th Dec 1985 latest value & latest duty]; C --> C3[3. Concession given during Amnesty Scheme - Old value with present Rate];
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Before 10.12.85

1. Old Value
2. Present Rate

Unregistered

1. Up to 4th July 1980 agreement value old Rate & 400% penalty
2. Between 4th July 1980, 10th Dec 1985 latest value & latest duty
3. Concession given during Amnesty Scheme – Old value with present Rate

AT THE TIME OF POSSESSION



**Every one may receive
notice in due course**

AT THE TIME OF CONVEYANCE

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graph TD; A[AT THE TIME OF CONVEYANCE] --> B["Paid at the time of Agreement exempted"]; A --> C["Other have to pay as per current Market Value"];
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**Paid at the time
of Agreement
exempted**

**Other have to
pay as per
current Market
Value**

Stamp Duty Collection Centers

Sr No.	Jurisdiction	Area covered	Office of the Respective collectors of stamps.
1	Fort	South Mumbai area	Old Custom house, Fort, Mumbai
2	Andheri-Taluka	Bandra to Jogeshwari	1st Floor, MMRDA Building, Near Family Court, Bandra Kurla Complex, Bandra (E), Mumbai
3	Borivali-Taluka	Goregoan to Dahisar	- do -
4	Kurla-Taluka	Eastern Suburban	New Administrative Building, Near Fly over, Chembur., Mumbai

REGISTRATION ACT - 1908

REGISTRATION ACT - 1908

REGISTRATION OF DOCUMENT / DEED OF CONVEYANCE

- ❖ As per Section 17 of the Act a document executed in connection with immovable property and if the value of the property is more than Rs. 100/-, shall be compulsorily registered.
- ❖ The time limit granted for registration of the document in normal course is four months from the date of execution of the document.
- ❖ If the document could not be registered within the time limit granted for registration, such

REGISTRATION OF DOCUMENT / DEED OF CONVEYANCE

documents can be presented for registration in delayed period.

- ❖ The Act provides to accept the document for registration during the first four months of the delayed period.
- ❖ In the event of the Deemed Conveyance, the Sub Registrar is empowered to issue show cause notices to the Opponents as to why the document should not be registered.

REGISTRATION OF DOCUMENT / DEED OF CONVEYANCE

- ❖ The Sub Registrar is empowered to levy penalty not exceeding 10 times of the registration fees as the penalty.
- ❖ Upon completion of the registration, obtain the original deed of conveyance and index II of the document

**No Ka. 5/Mudrank 12/Pra. Kra.
44/11/501/12, \
Office of the Inspector General of
Registration and Controller of Stamps,
Maharashtra State, Pune
Date 12-04-2012**

CIRCULAR

Sub:- Procedure of the Deemed Conveyance

**Under Maharashtra Ownership Flats (Regulation
of the Promotion of Construction, Sales,
Management and Transfer) Act 1963**

Sale agreement of flats, shops, Tenements were being made under Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sales, Managements and Transfer) Act 1963. However, effects of this agreement were not materialised in the transfer. Therefore the government by making an amendment in section 11(3) of the said Act has made provision of Deemed Conveyance. Similarly the officers from the co-operation department have been appointed as a competent Authority for the implementation of this task. However since the Deemed Conveyance is directly related to recovery of Stamp Duty & Registration of documents, officers from this departments have raised some doubts.

Therefore to clear the role of this department and to make the procedure of Deemed Agreement more easy, this guide lines circular has been issued.

1) Deemed Agreement:-

The competent authority will ensured that all documents in respect of Deemed Conveyance are correct. After ensuring that there is no problem in making Deemed Deed in the concerned matter then the competent authority who will asked the concerned Co-operative Housing Society to prepare Deemed Conveyance deed. The nature of the Deemed Conveyance is the same as normally the developer who executes the purchase deed of the Housing

Society. After the Deemed Conveyance deed is ready, the competent authority will ensure that it is proper and asked the concerned society to take adjudication on exact Stamp Duty.

Extent of Deemed Purchase Deed:

1) The said circular of Deemed Purchase deed is limited only for the registration of those certificates/orders of deemed purchase deed issued in the benefit of the Co-operative Housing Society by the Competent Authority behalf of the Developer./Builder/Land lord and only that registration will be made.

- 2) It is mandatory to submit the said issued certificate to the registrar within time limit prescribed in the registration act 1908.
- 3) While issuing this circular, it will not prejudice at all to the earlier letter no. Ka.4/pr.Ka.617/2011/3008, dtd 22-12-2001 issued by this office.

2. Adjudication

- 2.1) When the cases of Deemed Conveyance came for Adjudication, the Collector of Stamp should have to handle it on priority basis. And if necessary, he can form a separate group of officers and employees for this task.

2.2) When the Deemed Purchase deed is submitted for Adjudication, the Collectors of Stamps will make an enquiry of the last member included in the purchase deed in view of charging stamp duty and will handle two procedures as follow:-

2.2.1) If the last member has purchased flat/shop /tenement before issuing circular then in such cases he will give his Adjudication by considering that whether the last member has paid proper stamp duty or not?

2.2.2) If the last member has purchased flat/shop /tenement after issuing circular then in view of not making any misuse of the provision in the above 2.2.1 the Collectors of Stamp will make

an enquiry of all transactions executed after the issuing of circular and ensured that it was properly valued or not and if feel necessary shall recover the stamp Duty with penalty.

it is further explain that, in respect of the case of above 2.2.1 even though the Stamp Duty paid by the last member only is to be considered, the collector of stamp will make an entry in the separate register book of earlier transactions and when required will make an enquiry of it.

However the procedure of the Deemed Purchase Deed will not be stopped.

2.3) Those who have executed agreements before dated 10-12-1985 and if the deemed purchase deed is to be executed in the benefit of those members only then in such cases;

2.3.1) Those who have registered their agreements, in that respect true market value at the time of execution will be admissible.

2.3.2) Those who have not registered their agreements, in their cases,

2.3.2.1) The date on which the document was executed, and if the cheque payment of the recompense was made to the developer on that date, then benefit of true market value at the time of execution can be given by presuming

authorized certified copy of the bank pass book/ Statement as a evidence of execution.

2.3.2.2) If the evidence regarding execution mentioned as above is not available, then the latest government documentary evidence like telephone bill, electricity bill, property charges bill from the municipal corporation & similarly list of the members submitted to the Registrar at the time of registering the co-operative society & certified by him will be admissible & the benefit of true market value at that time will be given.

2.3.2.3) However, if any evidence regarding above 2.3.2.1 & 2.3.2.2 points is not available then true

market value of the date shall be taken into consideration on which purchase deed was submitted for execution

2.3.2.4) If the agreement copies or similar documents which are included in the deemed purchase deed are pending for some reasons with the Sub Registrar, Assistant District Registrar & Collector of Stamps then that document if demanded in the case of consideration, then it is essential to submit the same immediately. So that the procedure of deemed purchase deed will not be held up. Similarly, if the earlier floor space index is pending, then it is necessary to recover the value came at the rate of today's

market rate of balance floor space index and stamp duty payable on that.

3) Registration of deemed purchase deed -

3.1) After deciding the valuation of the documents and certifying it, it is submitted to the competent authority for execution.

3.2) The competent authority shall execute the document received in such a way by himself or through the officer authorized by him.

3.3) The said document will be submitted for registration within four months from its execution in the concerned zonal office of the sub-registrar for registration. If delay is made

for submitting, then penalty will be charged as per rule.

3.4) After submitting such document for registration, the registrar will complete the necessary procedure of the registration as per Registration Act.

4) Registration Fee

4.1) If all the members in the deemed purchase deed have registered their agreements earlier and if the necessary registration fee is paid, than the registration fee of Rs.100/- shall be charged by adding deemed purchase deed with these documents as supplementary document.

4.2) If some members in the deemed purchase deed have paid necessary registration fees by registering their documents earlier, and however if the transactions of the remaining are going to be registered for first time in the nature of documents then in such cases, by considering collective true market value of the property which is to be transferred in the benefit of the members who have not registered it earlier, the registration fee should be charged at the rate of 1 percent on it and the registration fee of Rs.100/- should be added by considering this as a supplementary document for those who have registered their agreements earlier. In

any circumstances, the registration fee should not be charged more than the prescribed maximum limit of Rs.30,000/-. Here it should be noted that the stamp duty is charged on each tenement (unit) and registration fee is charged on per document.

The above suggestion and procedure is very clear and to see that the registration of deemed purchase deed would be easy and simple by implementing accordingly.

Sd/-

**Inspector General of Registration
and Comtroller of Stamps
Maharashtra State, Pune.**

As per Provisions mentioned in MOFA 1963 necessary / Required documents for Registration of deed of Deemed conveyance for Cooperative housing Societies.

**Govt of Maharashtra Revenue & Forestry
Dept Govt circular No. Stamp duty -2012/1046/
Case No.294/
Revenue -1 Room No Revenue -7 A , Menzone
floor, Madam Cama Marg, Hutatma Rajguru chawk
Mantralaya, Mumbai 400032**

Date 12th July 2016

Read:-

1. Revenue & Forestry Dept Govt. order No. Stamp duty -2010 /Anau.san.8 _ case- 97/ M- 1 dated 16th July 2012.
2. Revenue & Forestry dept Govt circular no. stamp duty 2012 / 1046 / Case no. 294 / M-1 dated 26th November 2012.
3. Housing Construction / Development Dept, Govt order No. Miscellaneous -2016 / Case No- 1/ Du Va Pu- 2 Dated 14th June, 2016.

Introduction:-

As per above referred circular No. 1 & 2 instructions had been given for determination of documents & executive system in respect of stamp duty & registration of deed of Deemed conveyance of Cooperative Housing Societies under the provisions mentioned in Maharashtra Ownership Flats Act 1963 (about regulation of encouragement for construction of flats, their sale, management & transfers) . The said circular was attached with Exhibit 'A' which describes list of necessary documents to be attached with Application.

As per referred circular No.3 and Government order, the list of required / necessary documents for Deemed Conveyance has been published which is based on the recommendations of Committee established under the chairmanship of Chief Secretary(Housing construction and development) for overcoming the difficulties arising in respect of Deemed Conveyance. The Verification of the said documents is needed by Authorized officer or Competent Authority before passing order of Deemed Conveyance & issuing certificate for the same.

Once Authorized officer or competent Authority has passed order for Deemed Conveyance & issuance of

concerned certificate to the concerned cooperative Housing society. then thereafter there is no need or it is not required to verify the same documents at the level of Stamp duty District collector or Dy.Registrar .By considering all these facts it was under consideration to make corrections in above referred circular no-2 .Govt circular.

CIRCULAR:-

With regard to referred circular No.2 & Corrections/amendment made in provisions mentioned in the Govt circular dated 26/11/2012, the Amended / Modified Govt circular has been issued.

According to it the list of documents to be attached with Application and presented before concerned officers related to Stamp duty & Registration has been fixed /determined for obtaining Deemed Conveyance and given as below.

Minimum required / necessary documents valuation and registration of deed of Deemed Conveyance.

1. Draft of agreement for sale (with one xerox Copy)
2. Copy of Agreement for sale of flat of each member or Index II or Proof of ownership of flat e.g Succession certificate , Court order or will. Etc.

3. Copy of order issued by Authority for Deemed Conveyance as per MOFA, 1963 under section 11 (3) [About regulation of encouragement for construction of fats, their sale, Management & Transfer)
4. Copy of Identify card of witnesses
5. Copy of Registration Fees & stamp duty handling fees.

The said Govt order has been made available on Govt website www.maharashtra.gov.in its index No. is 201607131647330019. This order has been issued by digital signature

By the order & Name of Governor of Maharashtra

Shyamsunder Liladhar Patil
(By. Secretary)

Copy to:-----

1. Hon. Chief Secretary, Mantralaya Mumbai
2. Upper Chief Secretary (Assistance & Rehabilitation) Mantralaya Mumbai.
3. Chief Secretary (Revenue) Mantralaya Mumbai.
4. Chief Secretary (Housing Construction & Development Dept) Mantralaya Mumbai
5. Chief Secretary (Cooperation) Mantralaya Mumbai.

6. All Division Commissioners
7. All District Collectors (Officers)
8. Curfew Commissioner Maharashtra State, Pune.
9. Cooperation Commissioner Maharashtra State, Pune.
10. Registration -Chief Supervisor & Stamp Duty Controller Maharashtra state, Pune
11. Asst, Secretary, Revenue and Forestry Dept (Ka. La. -I / Curfew) Mantralaya, Mumbai.
12. Dy. Secretary Housing Construction & Development Dept, Mantralaya Mumbai.
13. Dy. Secretary Cooperative & Marketing Dept Mantralaya Mumbai.

14. Dy. Secretary, Revenue & Forestry Dept (Ka. La - 1 / stamp Duty) Mantralaya Mumbai
15. Nivad Nasti (M-1) Revenue & Forestry Dept Mantralaya , Mumbai.

To determined the documents in
view of to remove the difficulties
in Deemed Conveyance

**Government of Maharashtra
Housing Department**

**Government Resolution No. Misc. 2016/Pra.
Kra.1/Du & Pu-2**

Mantralaya, Mumbai - 400 032

Date:-14th June, 2016

Read:-

- 1) Govt. Resolution No: Maharashtra Act No. 4
published on dt. 25-02-2016
- 2) Govt. Resolution No: Mahas 2008/Pra.Kra.24/

Part-2 /Du & Pu-2, dt. 25-02-2011

3) Govt. Resolution No: Circular of Revenue and
Forest Department No. Mudrank
2012/1046/Pra Kra 294/M-1

Introduction:-

It is binding on the developer to execute Conveyance Deed of title, ownership rights and interest in the land and building on it in the name of Concerned Co-operative Society under section 11 of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963. Despite this large number of Co-operative

Housing Societies did not get conveyance letter after so many years. While seeing the evading tendency of the developer regarding giving conveyance of ownership rights and interest in the name of the society, the Government has decided to implement the concept of Deemed Conveyance. In view of to give impetus to the Deemed Conveyance, the act suggesting the amendment to the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, management and Transfer) Act, 1963 was published in the Gazette dt. 25-02-2008. In view of effective implementation of the amendments made in the Act, collateral amendments made in the Maharashtra Ownership of Flats (Regulation of the

Promotion of Construction, Sale, Management and Transfer) Rules, 1964. Incidental to the amendments made in the said Act, the Government Resolution was issued on dt. 25th February, 2011. To remove the difficulties in Deemed Conveyance, a Committee under the Chairmanship of Principle Secretary (Housing) and Comprising Secretaries of Urban Development, Revenue, Assistance & Rehabilitation and Co-operation Department was formed under the Government Resolution dt. 29-03-2016. The said committee has approved the report with some amendments submitted by the Committee appointed on 23-07-2015 under the Commissioner, Co-operation and Registrar. Incidental to the

recommendation related to the Housing Department of the said committee, the revised order is issued as below.

Government Resolution:-

Hereinbefore the list of documents to be attached with the application of Deemed Conveyance was fixed under Government Resolution No. Mahas-2008/Pra. Kra. 24/Part-2/Du & Pu-2, dt. 25-02-2011. The number of documents to be submitted by the applicant society with application was 12 in this Government Resolution. And it was mentioned in the Government Resolution that out of it as far as possible

documents should be submitted. Instead of that the decision has been taken that following documents shall be necessary with the Deemed Conveyance Application.

1. Application in Form 7 of the Rules of MOFA Law for Deemed Conveyance.
2. Copy of the Co-operative Housing Society's Registration Certificate/Company Registration Certificate /Deed of Declaration.
3. Extract Copy of Survey, 7/12 of the sanctioned layout or copies of the property card within three months.

4. A Copy of the Sale Agreement of every member or Index 2 or proof of the ownership right of the flat e.g. Succession Certificate, Decree of the Court or Will etc.
5. Legal Notice Serve to the Promoter under the Maharashtra Apartments Act 1970 by the Co-operative Housing Society for giving conveyance.
6. List of all legal flat owners in the society.
7. Construction Completion Certificate Certified by the Planning Authority.
8. If there are entries like type of controlled power, new indivisible condition or occupant class 2 on 7/12 extract or on property card

then the copy of the permission order for land transfer or for Non-agriculture purposes issued by the Competent Authority (If applicable).

Similarly while submitting Deemed Conveyance application to the Dy. Registrar, Co-operative Societies, One Copy of the application should be submitted to the Stamp and Registration Office, so that, the process of Deemed Conveyance will be faster.

The concerned department like Revenue and Forest Department, Urban Development Department and Co-operation, Marketing and Textile Department should issue the Government Resolution related to their

department immediately incidental to the recommendations submitted by the committee appointed on dt. 23-07-2015 regarding Deemed Conveyance under the Commissioner, Co-operation and Registration.

The said Govt. Resolution is available on Govt. Website www.maharashtra.gov.in its code is 201606141510258609. This order is issued by digital sign.

In the name and order of the Governor of Maharashtra.

Sd/-
(Jayant Wani)
Section Officer, Govt. of Maharashtra

THANK YOU

NARESH PAI
CONSULTANT - MSWA