

O/o. The Inspector General of Registration,  
Chennai 600 028.

Circular No.67 Dated 03.11.2011  
(C. No. 52338/C1/2011)

Sub: Procedure- complaints relating to fraudulent  
registrations through impersonation or  
production of false documents and evidences-  
reg.

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The large number of petitions being received in this department reveal that number of fraudulent registrations are increasing day by day. However, normal response of the department to such petitions is to direct the aggrieved parties to approach Civil Court. But, this reply to the petitioner is like committing double jeopardy against him. Hence, such a reply by the department cannot be treated as appropriate in the light of the statutory powers conferred upon the registering officers under Section 83, of Registration Act 1908 to file criminal case against the persons who are involved in fraudulent registration through impersonation or other means. Hence, filing of FIR is one of the statutory duties of the registering officer when such complaint is received. However, no such complaints are being entertained by the Sub-Registrars and no enquiries are being conducted by them and consequently no action is being taken on such complaints by the registering officers.

Similarly, Section 82 of Registration Act provides for the grounds for action under Section 83 of the Registration Act and the quantum of punishment for the offences. The whole purpose of inserting section 82 and 83 in the Registration Act, 1908 by the law makers was to punish the persons involved in registration of documents through impersonation or by giving false admissions or statements or by presenting false copies or translations of any document/map/plan etc., However, mere punitive action will not suffice and serve the objective of the registration act which aims at arresting fraud. Therefore, a curative remedy is necessary not only to provide relief to the aggrieved party but also to arrest further fraud and cheating of innocent future purchasers. Only such a course of action can serve the principles of natural justice. A Bench of the Andhra

Karnataka High Court (A/R2007) has observed in Yanala Malleswari Vs Ananthalu Sayamma case that court did not see any prohibition for the registering authority to cancel sale deed earlier registered, which is likely to cause prejudice to the rightful owners as well as entire public at large.

In the same judgment, the Hon'ble High Court has observed that "It is thus law of the land that even administrative authorities have inherent powers to recall or revoke their own order if such order was obtained by playing fraud on such public authority". The judgment also refers to the observation of the Hon'ble Supreme Court in the case of Indian Bank Vs Satyam Fibres India Pvt. Ltd. which is as follows:-

"Inherent powers (to recall or revoke their own orders by the administrative authorities if the same was obtained by playing fraud on such public authority) spring not from legislation but from the nature and conservation of the authorities, to enable them to maintain their dignity, secure obedience to process and ensure transparency"

In a nut shell, they have observed the following:-

It is therefore axiomatic that in India, the quasi judicial and administrative authorities have inherent powers to recall their orders or proceedings at a later point of time if it is shown that such order was obtained by playing fraud and misrepresentation. The question of applicability of law of limitation to exercise such inherent power by the administrative authorities does not arise because fraud unravels every thing rendering a fraudulent order void and non-existent. This principle in a different manner is also adumbrated in Section 21 of General Clauses Act, 1897 (Central Act No. X of 1897). Under the said provision, an authority who has power to issue, inter alia orders has also power to rescind such order.

Finally, they have opined as follows:-

" In the considered opinion of this Court if a person sells away the property belonging to other, it would certainly be fraud on the statute. It would be adding insult to injury, if such person is asked to go to civil Court and get the subsequent sale deed cancelled or seek a declaration".

In this regard, attention is further drawn to Sections 34(3) and 35 read with Rule 55 of the Registration Act, wherein duty has

been cast on the Sub-Registrars to consider objection raised on the grounds that the parties appearing before them are not the persons they profess to be or that the document is forged or that the representative/agent/assignee has no right to appear in that capacity or that the existing party is not really dead as alleged.

In light of the above discussion, following mandatory procedure is prescribed to deal with the complaints relating to fraudulent registrations through impersonation or production of false documents and evidences.

- (a) All such complaints of fraudulent registration received by the department have to be forwarded to the respective District Registrar (Admin) who shall register the same in a register of complaints relating to fraudulent registration in the following format.

<b>SI. No</b>	<b>Date</b>	<b>Name and address of the applicant</b>	<b>Document no. and SR office name</b>	<b>Name and address of the executants, claimants and witnesses</b>

- (b) After entering the complaint, he shall issue notices to the executants of the document and witnesses to appear for enquiry along with the complainant and he should also take witness of the registering officer and if needed, call for the records from the revenue department and also summon the respective Village Administrative Officer (VAO) to appear before him with the village accounts.
- (c) Once the enquiry is completed following summary procedure and it is proved that the registration has taken place through impersonation and through production of false documents and statements/admissions, he shall pass orders to this effect, recording his findings and issue direction to the concerned registering officers to file FIR against the concerned persons and also to make a note in the Index-II of the document which was

fraudulently registered to the effect that the "registration is annulled as per the proceedings of the District Registrar (proceeding no. to be noted) and is shall have same effect as prescribed under Section 49 of the Registration Act".

- (d) After receiving the order of the District Registrar, the registering office shall immediately file FIR and make entries as stated above in Index-II without any loss of time. The registering officer shall maintain a separate register in this regard in his office to register all such orders of the District Registrar in following format.

SI. No.	Date of receipt of order of DR	proceeding No	Doc No. of the Document to be annulled	Date of filing FIR	Date of making note in Index-II	Signature of the registering officer

- (e) The District Registrar should complete the enquiry maximum in two months in each case and if the parties are not appearing for more than 2 summons, ex-parte order should be passed based upon the documents, evidences and witnesses available. While issuing summons, mode of RPAD should be adopted.

However, these instructions will not apply to the cases where the complainant has admitted execution by himself due to whatever reasons. It is further emphasized that the procedure prescribed above is only to deal with fraudulent registrations done and it should in no way be construed to mean that the registering authority shall go into the issue of deciding title in case of rival claims on certain basis .


Any failure in registering complaints relating to fraudulent registration through impersonation or production of false documents/statements

etc., and initiation of enquiry followed by filing of FIR and making of annulment entries in Index-II shall be viewed seriously and necessary disciplinary action will be initiated against the concerned District Registrar (Admin) and the registering officer.

This order comes into immediate effect.

Any party aggrieved by the orders of the District Registrar may prefer an appeal with Inspector General of Registration.

Sd xxxxx IGR  
Dated 3-11-2011

 3.11.2011.  
For Inspector General of Registration.

To

All Deputy Inspectors General of Registration

All District Registrars

All Sub Registrars

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