

The Registration (Gujarat Amendment) Act, 2018

GUJARAT

India

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Act 4 of 2020

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AN ACT further to amend the Registration Act, 1908 in its application to the State of Gujarat. It is hereby enacted in the Sixty-ninth year of the Republic of India as follows:-

1. Short title and commencement.

(1) This Act may be called the Registration (Gujarat Amendment) Act, 2018. (2) It shall come into force on such date, as the State Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 17 of XVI of 1908

In the Registration Act, 1908, in its application to the State of Gujarat xvi of 1908. (hereinafter referred to as "the principal Act"), in section 17, - (i) in sub-section (1), - (a) for clause (f), the following clause shall be substituted, namely: - "(f) power of attorney intending to administer, manage and/or alienate immovable property in any manner" Guj. 15 of 1908 executed on or after the commencement of the

2016. Registration (Gujarat Amendment) Act ' 2016;

(b) after clause O, the following clause shall be added, namely: - "(k) sale certificate issued by any competent officer or authority under any Central Act or State Act for the time being in force."; (ii) in sub-section (2), clause (xii) shall be deleted.

3. Amendment of section 32 of XVI of 1908.

In the principal Act, in section 32, the following Explanation shall be added at the end, namely: - "Explanation. - For the purpose of this section the term "document" shall include the document presented by an electronic means"

4. Amendment of section 34 of XVI of 1908.

In the principal Act, in section 34. -(i)after sub-section (1), the following sub-section shall be inserted, namely:-(1A) The registering officer may refuse to accept the non-testamentary documents relating to immovable property mentioned in sub-section (1) of section 17, if they are not accompanied by the -(a)proofs of identity of executing and claiming parties and witnesses;(b)proofs of authorization when the executant or claimant thereunder is representative or agent authorized by the person or entity whose document is to be registered;(c)sign or thumb impression/finger print (if the person is unable to sign) of one person from both executing and claiming parties, affixed on each and every page of the deeds submitted for registration;(d)proofthat the principal is alive, in cases where the document is executed by the power of attorney holder on behalf of the ' principal.'; (ii)the following Explanation shall be added at the end, namely:-"Explanation.- For the purpose of this section the term "document" shall include the document presented by an electronic means".

5. Amendment of section 35 of XVI of 1908.

(1)In the principal Act, in section 35,the following Explanation shall be added at the end, namely:-"Explanation- For the purpose of this section the term "document" shall include the document Presented by an electronic means.".

6. AmendmeBt of section 69 of XVI of 1908.

In the principat Act, in section 69, in sub-section (1), after clause O, the following clause shall be added, namely:-(k) regulating the procedure for piesenation of document, appearance for admission, endorsement, manner of affixing signature and sea[, mode of payment of registration fees and " other fees and such other process when the document is presented by electronic means.".

7. Insertion of new sections 89A, 89B, 89C and 89D in XVI of 1908.

In the principal Act, after section 89, the following sections shall be inserted, namely:-

89A. Copies of court decrees, attachment orders, etc., to be sent to Registering Officers and filed in registers.

(1)Every court passing,-(a)anv decree or order creating, declaring, transferring, limiting or extinguishing any right, title or interest to or inimmovable propertv in favour of anv person' or(b)an order to interim attachment or attachment of immovable property or for the release of any immovable property from such attachment shall, in accordance with the rules made in this behalf, shall send a copy of such decree or order together with a memorandum describing the property as far as may be practicable, in the manner required by section 21, to the Registering Officer within the local limits of whose jurisdiction the whole or any part ofthe immovable property comprised in such decree or order, is situated, and such officer shall file the copy of the memorandum in his Book No I :Provided that, where the immovable prope(y is situated within the local limits of the jurisdiction of

more than one Registering Officer, the procedure specified in clauses (a) and (b) of this sub-section shall be followed in respect of the property within the jurisdiction of each of such officer. (2) Every officer issuing a certificate of sale or a written demand before the attachment of the immovable property of a defaulter under the provisions of any law relating to Revenue Recovery for the time being in force including the Revenue Recovery Act, 1890, shall, - (a) send a copy of such certificate of sale or written demand together with a memorandum describing the property, as far as may be practicable, in the manner required by section 21; (b) where such written demand is withdrawn or attachment of property is lifted or the property sold and sale is confirmed, send a memorandum indicating that fact and describing that property, as far as may be practicable, in the manner required section 21, to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the immovable property to which the written demand is situate, and such registering officer shall file a copy of the written demand and memorandum in his Book No 1: Provided that, where the immovable property is situate within the local limits of the jurisdiction of more than one Registering Officer, the procedure specified in clauses (a) and (b) of this sub-section shall be followed in respect of the property within the jurisdiction of each of such officers.

89B. Notice to be sent to Registering Officers by mortgagor or in case of mortgage by depositing title deeds and provisions for compensation in favour of

subsequent transferee. (1) Every person who has mortgaged immovable property by way of mortgage by depositing title deeds under clause (f) of section 58 of the Transfer of Property Act, 1882 shall, within 30 days from the date of mortgage, file a notice of intimation of his having so mortgaged the property giving details of his name and address, name and address of mortgagee, date of mortgage, amount received under the mortgage, rate of interest payable, list of documents deposited, and description of the immovable property in the manner required by section 21, to the registering officer within the local limits of whose jurisdiction the whole or any Part of - the property is situated, and the said officer shall file the same in his Book No I : Provided that if the property so mortgaged falls within the jurisdiction of more than one registering officer, the procedure specified in this sub-section shall be followed in respect of property within the jurisdiction of each of such officers. (2) If, the person who has mortgaged the property as aforesaid fails to file a notice within 30 days as referred to in sub-section (1) before the registering officer or officers, as the case may be and enters into any transaction in relation to or affecting the immovable property which is subject matter of the mortgage, with a third party, such a transaction shall be void and the third party shall be entitled to refund any amount paid by him together with interest at twelve per cent. from the date of payment and also to compensation for any damages suffered by him, from the transferor. (3) The amount recoverable by such transferee as specified in sub-section (2) shall be a charge on the interest of the mortgagor, in the mortgaged property: Provided that, nothing in this section shall apply to the instruments of agreement relating to mortgage by deposit of title deeds which are duly registered under the provisions of this Act.

89C. Punishment for failure to file notice under section 89B.

Any person who fails to file a notice under section 89B to the registering officer along with fees, within the period specified in that section, shall be punished with imprisonment for a term which shall not be less than one year but which may be for a term which may be extended up to three years and shall also be liable to fine.

89D. Power to make rules for filing of true copies of documents and notices referred in sections 89A and 89B.

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of section 89A and section 89B. (2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for, - (a) the manner in which notices or true copies of documents shall be prepared, and (b) the manner of filing of the notices or true copies. (3) All rules made under this section shall, be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make, during the session in which they are so laid or the session immediately following. (4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.