

Q1. HOW IS OWNERSHIP OF IMMOVABLE PROPERTY ACQUIRED?

Ans:- A person may acquire immovable property in any of the following ways:

Download SVGPerfect for when you want to use just one icon as a vector on the desktop or in your own icon workflow. By inheritance of ancestral property.

Through will.

By way of purchase etc.

Through gift, trust, settlement deeds.

Through Grant, sanad / Inam by the Government.

Through partition deed.

Through decree of Court.

There are two ways of acquisition:

By act of parties.

Example: Purchase, gift etc.

By operation of law.

Example: Inheritance, decree of Court etc. (for details please see Transfer of Property Act, 1882 (Central Act))

Q2. IS IT NECESSARY TO GET DOCUMENT REGISTERED IN THE OFFICE OF SUB- REGISTRAR FOR PATTAKHATA TRANSFER (MUTATION) IN RESPECT OF PROPERTY ACQUIRED BY INHERITANCE?

Ans:- Not necessary. After the death of owner of a property his legal heirs, such as wife, children i.e. male and female, married or unmarried may, as per respective personal law, can get the Patta/Khata transferred on production of death certificate of the owner with details of property held by him to the following officers.

If property is an agricultural land " Mandal Revenue Officer (under Telangana Land Revenue Act); if property is house or vacant land in a city/village other than agricultural land -- Offices of Corporation , Municipality, Panchayat or City survey if such office exists.

Q3. WHICH DOCUMENTS ARE REQUIRED TO BE COMPULSORILY REGISTERED?

Ans:- Gift deed of immovable property.

Other non - testamentary instruments, which purport or operate to create, declare, assign, limit or extinguish whether in the present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property. Eg: Sale, mortgage, partition, release, settlement of immovable property.

Non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of creation, declaration, assignment, limitation or extension of any such right, title or interest;

Lease of immovable property

Non-testamentary instruments transferring or assigning any decree or order of a court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in the present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property;

The documents containing contracts to transfer for consideration, any immovable property for the purpose of section 53A of the Transfer of Property Act, 1882 shall be registered if they have been executed on or after the commencement of the Registration and Other Related Laws (Amendment) Act, 2000 and if such documents are not registered on or after such commencement, then, they shall have no effect for the purposes of the said section 53A

Q4. HOW TO EFFECT PARTITION OF PROPERTY?

Ans:- If all the parties have share (common right) in the property then partition can be effected. If partition is effected through an instrument then such instrument must be compulsorily registered.

Stamp duty has to be paid in respect any kind of partition whether it is to be compulsorily registered or not.

Parties to the partition may agree to effect partition of unequal shares

Q5. WHEN THERE ARE TWO OR MORE HEIRS, CAN ONE OR TWO BE MADE FULL OWNERS WHILE OTHERS ACCEPT MONEY IN LIEU OF THEIR SHARE?

Ans:- Yes. It can be done either by means of partition or by means of release as the parties may wish.

Q6. WHAT IS A WILL?

Ans:- A testamentary document by which a person bequeaths his property to be effective on his death is a will. The property will devolve on the person in whose favour it is bequeathed after death of testator.

Q7. WHO CAN EXECUTE A WILL?

Ans:- Any person above the age of 18 years and mentally sound may execute will, but the will caused by fraud or coercion or by forcefully is not valid. Therefore a will must be executed voluntarily.

Parents or guardians cannot execute will on behalf of minors or lunatics.

Attestation by two witnesses is necessary.

Scribe (deed writer / advocate) cannot be called witness. Two independent attesting witnesses other than the scribe are necessary.

Beneficiary under a will should not sign as attesting witness.

In order to avoid disputes in implementation of a will, description of property and the beneficiaries should be clearly written without giving room for any doubt.

No stamp duty is required to be paid. Will can be drafted on a white paper.

Q8. IS IT COMPULSORY TO REGISTER A WILL?

Ans:- It is not compulsory. Executant may register at his option. It is better to register the will. If original is lost, a certified copy can be obtained from Sub - Registrar Office.

Q9. WHERE CAN A WILL BE REGISTERED? WHAT IS THE FEE FOR ITS REGISTRATION?

Ans:- It can be registered in any office of the District Registrar/Sub Registrar on payment of a fee of Rs.500/-

Q10. IS THERE ANY TIME LIMIT TO REGISTER A WILL??

Ans:- There is no time limit. It can be registered at any time after its execution.

Q11. CAN A WILL BE CANCELLED?

Ans:- The testator can cancel his will at any time during his lifetime.

Q12. CAN A REGISTERED WILL BE RECTIFIED OR CANCELLED?

Ans:- If executant of a will wishes to rectify, change the content by way of addition/deletion of any recital in the original will may do so during his lifetime. This is called codicil. This document does not require any stamp duty.

Q13. CAN A WILL BE REGISTERED EVEN AFTER THE DEATH OF THE TESTATOR?

Ans:- Yes, claiming party under the will, should produce will, records relating to the death of the testator, witnesses and the scribe before the Sub Registrar. If Sub Registrar is satisfied about the truth and genuineness of the execution of the will, he will register. There is a procedure called will enquiry to be followed by the Registrar/Sub Registrar to register a will presented after the death of the testator.

Q14. IS A CERTIFIED COPY OF WILL AVAILABLE TO EVERYBODY?

Ans:- A certified copy of a registered will is available to the testator only during his lifetime. After his death anybody can obtain after producing proof of death of testator.

Q15. HOW TO KEEP CONTENTS OF A WILL CONFIDENTIAL?

Ans:- Will can be deposited in a sealed cover in office of the District Registrar by paying a fee of Rs.1000-00. Depositor or authorized person (executor) can withdraw the sealed cover containing a will, if he/she desires to do so.

Q16. WHAT IS THE PROCEDURE TO OBTAIN SEALED COVER CONTAINING A WILL AFTER THE DEATH OF THE DEPOSITOR?

Ans:- On making an application along with proof of the death of the depositor, District Registrar will open sealed cover in the presence of the applicant and it will be registered. Certified copy will be issued if desired. A fee of Rs.1000-00 prescribed to open a sealed cover.

Q17. WHAT IS THE PROCEDURE FOR EFFECTING MUTATION OF THE PROPERTY GOT THROUGH A WILL?

Ans:- After the death of the testator, a person claiming through the will, have to apply to the concerned authorities as explained in question no.2 along with the copy of the will and death proof.

Q18. WHAT ARE THE DOCUMENTS PROHIBITED FROM REGISTRATION UNDER THE REGISTRATION ACT IN TELANGANA?

Ans:- Section 22-A of the Registration Act, 1908 as it presently stands, reads as under: "22 A (1). Prohibition of Registration of certain documents: -

The following classes of documents shall be prohibited from registration, namely:-

Documents relating to transfer of immovable property, the alienation or transfer of which is prohibited under any statute of the State or Central Government;
Documents relating to transfer of property by way of sale, agreement of sale, gift, exchange or lease in respect of immovable property owned by the State or Central Government, executed by persons other than those statutorily empowered to do so;

Documents relating to transfer of property by way of sale, agreement of sale, gift, exchange or lease exceeding (ten) 10 years in respect of immovable property, owned by Religious and Charitable Endowments falling under the purview of the Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987 or by Wakfs falling under the Wakfs Act, 1995 executed by persons other than those statutorily empowered to do so;

Agricultural or urban lands declared as surplus under the Telangana Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 or the Urban Land (Ceiling and Regulation) Act, 1976;

Any document or class of documents pertaining to the properties the State Government may, by notification prohibit the registration in which avowed or accrued interests of Central and State Governments, Local Bodies, Educational,

Cultural, Religious and Charitable Institutions, those attached by Civil, Criminal, Revenue Courts and Direct and Indirect Tax laws and others which are likely to adversely affect these interests.

For the purpose of clause (e) of sub - section (1), the State Government shall publish a notification after obtaining reasons for and full description of properties furnished by the District Collectors concerned in the manner as may be prescribed.

Q19. WHAT IS THE PURPOSE OF REGISTRATION?

Ans:- By registration, any transaction of immovable property]will become a permanent public record. This is a notice to the general public. Those getting transfer of property should verify whether such property has been previously encumbered. According to Transfer of Property Act right, title or interest can be acquired only if the deed is registered.

Q20. WHAT ARE THE EFFECTS OF NOT REGISTERING A DOCUMENT REQUIRING REGISTRATION?

Ans:- If a deed of transfer, which is compulsorily registrable, is not registered it will not affect the immovable property comprised in the deed and it will not be admissible in evidence (Sec.49 of Registration Act 1908)

Q21. IS THERE A TIME LIMIT FOR PRESENTATION OF A DOCUMENT FOR REGISTRATION AFTER ITS EXECUTION ?

Ans:- Document may be presented for registration within four months from the date of execution (signature).

If a document is executed out of India, the period of four months will be counted from the date of its first receipt in India.

After four months document may be presented within another four months with penalty subject to maximum of ten times the registration fees, if the District Registrar grants permission. But document may be presented before Sub Registrar within eight months. Thereafter it cannot be accepted for registration.

Q22. WHAT ARE THE NORMAL TIMINGS FOR ACCEPTING DOCUMENTS FOR REGISTRATION AT SUB - REGISTRAR OFFICES ?

Ans:- Generally deeds are accepted during working hours ie., between 10:30 am and 5 p.m. Sub Registrar may stop accepting before closing time, if he has sufficient work to attend in respect of deeds already received for registration. Provided deeds may be accepted in emergency cases on holidays, if the Sub Registrar happens to be in the Office.

Q23. CAN A DOCUMENT PRESENTED FOR REGISTRATION BE WITHDRAWN?

Ans:- Registering officer may permit withdrawal of the document before completion of registration on written request by the party who presented the document in case only, if the document has been presented by the claimant but not by the executant.

Q24. WHO SHOULD BE PRESENT AT THE TIME OF REGISTRATION?

Ans:- A deed may be presented for registration either by claiming or executing party or by the agent with an attested power of attorney to present the document but the executant / executants must be present to admit execution (signing) of the deed, if the document is presented by claimant. If the executant gives the power to the agent to present and admit the execution on behalf of the principal, then the power shall be attested as per Section 33 of Registration Act, 1908. (Please see Sec.32 of Registration Act 1908).

Q25. WHAT IS THE REMEDY IF THE EXECUTING PARTY REFUSED TO APPEAR IN A REGISTRATION OFFICE TO ADMIT EXECUTION?

Ans:- In such circumstances, registering officer will issue notice/ summons to the Executant. If the party does not turn up registering officer will refuse registration. Application may be made to the District Registrar on such refusal. The District Registrar will hold enquiry and decide the case. Prescribed fee should be paid for such application.

One may submit appeal to the Civil Court if

District Registrar also refuses to order for registration (For details please see Sec.73, 74, 75, 76 & 77 of Registration Act 1908).

Q26. WHO CAN SIGN AS A WITNESS TO A DOCUMENT?

Ans:- Any person, above 18 years of age and not a party to the document may sign as witness.

Q27. WHO ARE IDENTIFYING WITNESSES AT THE TIME OF PRESENTING A DOCUMENT FOR REGISTRATION?

Ans:- In order to identify genuineness of the persons executing the document, signature of two identifying witnesses are obtained. Without such witnesses, registering officer may refuse registration.

Q28. WHO IS AUTHORISED TO WRITE DOCUMENTS IN TELANGANA?

Ans:- Deed may be personally written by the executant or may be drafted by a deed writer or advocate. In Telangana the system of licencing the document writers stands abolished. Now, the parties can approach anybody who is conversant with deed writing. The parties may approach a lawyer/solicitors to get their document drafted in professional manner covering all aspects of transaction and laws governing such transaction.

Q29. WHAT ARE THE KINDS OF DOCUMENTS WHERE PERSONAL APPEARANCE OF THE EXECUTANTS IS EXEMPTED FROM APPEARANCE?

Ans:- Mortgage deed executed under Improvement Loans etc.

Certificate of sale issued by revenue court.

Documents executed by farmers in favour of primary co - operative land development bank to obtain loan and loan bonds executed by farmers in favour of banks under Karnataka Agricultural Credit Co - operations and Miscellaneous Provisions Act 1975 are sent under Sec.89 of the Registration Act and they are filed.

Q30. HOW AN ADOPTION DEED CAN BE REGISTERED?

Ans:- An adoption deed has to be executed by both the parties and can be registered like any other document.

Q31. WHAT ARE POWERS OF ATTORNEY?

Ans:- There are two kinds of Power of Attorney.

General Power of Attorney (GPA)

Special Power of Attorney (SPA)

Special Power of Attorney requires attestation (As per Sec 32 and 33 of Registration Act).

General Power of Attorney is executed by a person in favour of another, to act on behalf of him generally. It may include management of property, Court matter/litigations, sale of mortgage of property or any other act.

Special Power of Attorney is executed to do a particular act or for a particular purpose.

Special Power of Attorney authorizing the agent to present the document executed by the Principal before the Registering Officer concerned and admit the execution thereof, requires to be attested by the Sub Registrar/Registrar in case the Principal resides in India except in Jammu and Kashmir. If the principal resides in Jammu and Kashmir, then it has to be attested by the Magistrate. And if the principal resides outside India, then the power shall be attested by Consul/Vice - Consul/Notary Public/Magistrate.

Power of Attorney-holder is answerable to the principal and liable to give accounts to him.

Q32. DOES AN AGENT UNDER A POWER OF ATTORNEY GET THE PROPERTY TRANSFERRED IN HIS NAME THROUGH THE SAID POWER OF ATTORNEY?

Ans:- No. It is wrong to say that ownership is transferred by getting General Power of Attorney. Persons purchasing property must get the sale deed registered. This principle applies to other kinds of transactions also.

Q33. WHO CAN EXECUTE A POWER OF ATTORNEY?

Ans:- A person who has attained the age of majority may execute power of attorney in favour of another person who has attained majority including family members like wife, husband, son, daughter, brother, sister, father and mother to act on his behalf. If a power of attorney is executed to sell/develop/transfer in any manner whatsoever, of the immovable property in favour other than those mentioned above, 1 percent stamp duty shall be paid on market value of such property. In case of family members, the required stamp duty is Rs.1000/-

Q34. HOW DOES A GENERAL POWER OF ATTORNEY GET CANCELLED?

Ans:- GPA automatically gets cancelled on the death of Executant. Principal (Executant) may cancel it at any time.

Q35. WHEN IS A POWER OF ATTORNEY IRREVOCABLE?

Ans:- If the Power of attorney is executed for consideration in respect of property, it cannot be unilaterally revoked, prejudicial to the interest of the agent (See Sec.202 of Indian Contract Act, 1872).

Q36. WHAT IS A SPECIAL POWER OF ATTORNEY?

Ans:- Power of Attorney executed by a person in favour of another to act on his behalf for specific purpose is called Special Power of Attorney

If a person is unable to go over to registry office to present a document executed in his favour or to admit execution of document executed (signed) by him in India, such power of attorney shall be authenticated or attested by a Sub Registrar. Otherwise they are not acceptable for the purpose of registration. If such document is executed outside India, it shall be authenticated or attested by a Notary or consul or vice-consul.

Q37. IS IT COMPULSORY TO REGISTER GENERAL POWER OF ATTORNEY EXECUTED BY A PERSON RESIDING OUT OF INDIA AND ATTESTED BY OFFICERS OF EMBASSY/CONSULATE/NOTARY PUBLIC IN THAT COUNTRY ?

Ans:- It is not necessary to register. But Stamp duty as per Article 42 shall be paid within 3 months from the date of receipt of the power of attorney in India if it is not already stamped.

Q38. WHAT IS MEANT BY ENCUMBRANCE CERTIFICATE (EC)?

Ans:- Encumbrance Certificate is a record showing registered transactions pertaining to a property. If mortgage, sale or any other deeds in respect of an immovable property are registered, indexing will be done by the Registration Department and this indexing is ultimately converted to generate an encumbrance certificate. Today, in Telangana, the Encumbrance Certificates are issued by MeeSeva Centres and Sub Registrar and District Registrar Office

Q39. WHAT CAN BE UNDERSTOOD BY NIL EC?

Ans:- If no deeds of transactions are registered in respect of a property mentioned in the application of EC, nil encumbrance certificate is issued. If Certificate is issued in this form, it means that there are no registered transactions / liabilities on the property for a given period of time; and unregistered transactions are not included in this certificate since such details are not available with Registration Department. People shall be very careful in filling the application form for EC; if they give incomplete/inaccurate details, they may get a wrong EC. Interested parties may

approach the Sub Registrar and on paying prescribed fee, may be permitted to verify the records personally. EC cannot be taken as a sole criterion to buy a property or lend money. It is better to undertake comprehensive study as suggested in property purchase precautions or Jagrattha short film on the website.

Q40. HOW TO OBTAIN CERTIFIED COPY OF A REGISTERED DOCUMENT?

Ans:- Any person may obtain certified copy of registered document relating to immovable property.

Certified copy of registered will, may be obtained only by the testator only during his lifetime. Any person may get copy of a will after the death of the testator on production of death certificate.

Copies of registered deed of GPA and other documents relating to movables may be obtained by executant / claimant or agent, representative of such person only.

Stamp paper of Rs.20 is required to be produced along with a fee of Rs.200+User charges

Note: Now the certified copies can be obtained through Meeseva kiosks in many districts of Telangana.