

CHAPTER-27

MUTATION AFTER TRANSFER

Mutation is a process of substitution in the place of the previous lessee, the name(s) of new owners. Upon transfer of the leased premises by way of sale or gift etc., the name of transferee is mutated in the records of the lessor.

On receipt of an application for mutation after transfer of a property, it shall be verified by the concerned section whether the transfer has been effected with the permission of the lessor, if such permission was required to be obtained under the terms of lease. If so, the transferee shall be asked to furnish a copy of the transfer deed, duly certified by the Sub-Registrar.

If the Sale Permission/Gift Permission is granted to the lessee and the sale deed/gift deed has been executed by the lessee itself, strictly as per the permission granted, such sale deeds or gift deeds shall not be referred to Branch Officer or Legal Officer for checking. In such cases the sale deeds or gift deeds, as the case may be, shall be checked in the Section itself and mutation letter put up. If the sale deed or gift deed is executed through attorney, such documents shall be referred to Branch Officer or Legal Officer for vetting.

[No. 24(19)/91-CDN dated 20.7.1992 – Office Order No. 10/92]

If the transfer deed is found to be in order, it shall be checked whether the intimation of change in possession had been given within the specified period of one month (applicable in all cases of rehabilitation properties and certain cases of old un-restricted leases of land granted by the Land and Development Officer only) and whether other conditions, if any, of grant of permission for transfer had been complied with. If these conditions have been complied with to the satisfaction of the office, a letter intimation mutation of the property in the forms at Annexure.... Shall be issued.

If the transfer deed is found to be defective, the transferee shall be intimated of the defects with the request to get them rectified through a registered deed. If the rectification deed is executed and is in order and all other conditions are complied with by the transferee, mutation of the property shall be done.

Where in a case of transfer of a Rehabilitation Property, intimation is not received within a period of one month from the date of registration of transfer deed, a show-cause notice shall be issued to the purchaser in a prescribed format, for the payment of penalty of Rs. 100/-. This amount is indicated in the mutation letter.

Where, it is found that no permission for the transfer of the property had been obtained under the terms of lease, action shall be taken for this breach of the terms of lease in accordance with the procedure. Mutation of the property shall be carried out in the name of the transferee only after all Government dues have been realised and the conditions precedent to carrying out mutation has been fulfilled by him. Mutation in cases of (i) transfer with permission where such permission is required, and (ii) sale/transfer without permission of the lessor where such permission is not required shall not act as a waiver of the breaches in knowledge of the lessor, if any. Mutation shall, therefore, be carried out, even while the breaches remain unremedied. But it shall be made clear in the Mutation Letter that action for the breaches is being taken separately. Ground rent shall not, however, be demanded or accepted till the breaches are removed or regularised.

Mutation may be carried out only with the consent of lessee where the Sale Deed is executed by the G.P.A. even though the sale permission had been obtained by the lessee by independently applying for the same after execution of G.P.A. if the Principal (Lessee) acts himself it amounts to implied revocation. However, an exception can be made in cases of G.P.A. coupled with consideration which should have been clearly mentioned in the G.P.A. itself.

[No. 24(12)/76-Pt./CDN, dated 23.2.1993, Office Order No. 6/93]

2. MUTATION ON TRANSFER OF PROPERTY ON THE BASIS OF COLLUSIVE DECREE:

In cases where the lessee does not have any objection and he being a party to the collusive decree and the decree is registered and this office have absolutely no interest in the transaction and Government interest is not affected, there is no need to go into extraneous items which do not concern this office or Government interest. The registered decree may be accepted and mutation shall be carried out by treating it as transfer.

[No. 24(55)90-CDN, dated 9.2.1993 Office Order No. 2/93]

N.B.: All collusive decree obtained after 13.12.1990 should be registered. [Office order 32/90 dated 13.12.1990 read with office order No. 2/93 dated 9.2.1993].