

Office of the Inspector General of Registration,

Chennai - 600 028.

CIRCULAR

Letter No.20217/U1/2021 Dated.09.07.2021

Sub: Complaints - Fraudulent Registration - Enquiry to be conducted under Section 68(2) of the Registration Act, 1908 by the District Registrars (Admin) - Procedure prescribed by invoking Section 69 of the Registration Act, 1908 - Hon'ble High Court Order - Indexing necessary entries, incorporating Relevant foot notes in copy of Documents - Directions to Registering Officer - compulsorily be part of proceedings - for scrupulous following by DRs and DIGs - Instructions issued - Regarding.

- Ref:**
1. Inspector General of Registration Circular No:67 dated 03.11.2011.
 2. Circular No.41530/U1/2017 dated 20.10.2017 of Inspector General of Registration, Chennai -28.
 3. Circular No.41530/U1/2017 dated 08.11.2017 of Inspector General of Registration, Chennai -28.
 4. Circular No.41530/U1/2017 dated 06.04.2018 of Inspector General of Registration, Chennai -28.
 5. Circular No.41530/U1/2017 dated 31.07.2018 of Inspector General of Registration, Chennai -28.
 6. Hon'ble HC Judgment in W.P.(MD) No.10177 of 2021 (Madurai Bench of Madras High Court)

1. *Vide* reference first cited, a circular was issued by the Inspector General of Registration prescribing a mandatory procedure to deal with the complaints relating to fraudulent registrations through impersonation or production of false/fake documents and evidences and to annul the registration of the documents if proved.
2. The above Circular No.67, dated 03.11.2011 was withdrawn with immediate effect, based on the Hon'ble Supreme Court Judgement in "Civil Appeal No.6673 of 2014". (*vide letter second cited*).

3. In the circular 3rd cited, a detailed mandatory procedure was prescribed by invoking Section 69 of the Registration Act, 1908 by the Inspector General of Registration, directing the District Registrars to conduct enquiry under Section 68(2) of Registration Act 1908, i.e. verifying the complaints received in respect of fraudulent registrations. In this Circular, the District Registrars and DIGs were directed to pass appropriate **speaking orders by way of the proceedings** and were also directed to communicate the same to the petitioners through RPAD.
4. Later, *vide* reference 4th cited, it was instructed to recall all the annulment orders passed by the District Registrar(Admin)s, as the above said Circular No.67, dated.03.11.2011 was withdrawn.
5. Then, in the circular 5th cited, clear instructions were issued to pass specific orders. If fraudulent registration is proved, the Registering Officers were directed to make relevant index-II entries and foot note entries in the copy of documents accordingly. (i.e.), the entry in index-II should be made as, "The registration of document is found as fraudulent *vide* proceedings of the District Registrar (*Proceeding no. and date to be noted*) due to ----- (*the findings to be given briefly*)". The same note should be made as a footnote in the relevant copies of documents filed in volumes and to be signed by the Registering Officer. If it is a scanned document, then the note should be made in a separate white paper, signed by the Registering Officer and to be linked accordingly to the main document.
6. Further, District Registrars in their proceedings should direct the Registering Officers that no further registration of documents can be done based on the fraudulent document. Also, the proceedings should direct the Registering Officer that the genuine owner should be allowed to proceed with further registration irrespective of the fraudulent registration with respect to the said property. It was instructed that the Deputy Inspector General of Registration and District Registrar should check whether proper entries are made in the relevant registers on their visits to the Sub Registrar Officers.
7. Now, in the 6th reference cited, The Hon'ble High Court(Madurai Bench) in its order, "... .. that in all such cases, once an order is

passed by the Authority declaring the transaction to be fraudulent and it has become final, the same has to be recorded in the relevant register and it must be reflected in the Encumbrance Certificate... ..

... .. The order passed by the competent Authority declaring a transaction to be a fraudulent one and where such order has become final, necessary entry has to be made in index. That apart, foot note must also be in the relevant copies of the documents. This safeguard is being given only to ensure that an innocent third party should be made aware that such an order has been passed and that he is not misled to enter into a transaction with regard to a document, which has been held to be a fraudulent one. This procedure will atleast save the time of the real owner of the property, who need not unnecessarily knock the doors of a Civil Court.

It is made clear that this procedure must be scrupulously followed in all cases, where the transaction had been declared to be a fraudulent one by the competent Authority and such order has become final. The Inspector General of Registration shall refer to this order and issue a circular to all the Sub Register Offices across Tamil Nadu and direct them to strictly follow the directions issued in the earlier circular dated 31.07.2018... ..".

8. On Perusal of the DIG Madurai file relating to the above Hon'ble High Court Order, it was found that Thiru.S.R.M.Pakkirirajan filed a petition to District Registrar, Dindigul on 10.01.2018, stating that his land was sold fraudulently by one Thiru.N.Sudhakar to Tmt.R.Deepa by using forged patta. The District Registrar found that the patta is fake and the transaction is fraudulent. The District Registrar, Dindigul in the proceedings ordered the Registration was fraudulent also ordered the petitioner to approach civil court for the cancellation of the registered document.

Then the petitioner submitted an appeal to the Deputy Inspector General of Registration on 15.04.2019 and DIG, Madurai also found the document as a fraudulent one and passed orders accordingly. (Vide DIG Madurai Proceedings No.2378/A2/2019 dated.30.04.2019). While passing orders the DIG failed to follow the procedure laid down in the circular cited in the 5th reference. i.e., making index-II entries and footnote in the relevant copies of the documents. Further, she

has failed to direct in her proceedings that further registration of documents should not be done based on the fraudulent document. Hence the petitioner approached the Hon'ble High Court for remedy.

9. So, while passing orders relating to the cases of enquiry under Sec 68(2) of Registration Act, all the DRs and DIGs are hereby directed to strictly adhere to the procedure laid down in the Circular No.41530/U1/2017, dated.31.07.2018. Thus, it is hereby reiterated that,
- (i) The District Registrars and DIGs should pass **speaking orders by way of the proceedings.**
 - (ii) If a transaction is found to be fraudulent and order passed in this regard, the proceedings should invariably contain instructions directing registering officers to make an entry in index-II as, "The registration of document is found as fraudulent vide proceedings of the District Registrar (Proceeding no. and date to be noted) due to ----- (the finding to be given briefly)".
 - (iii) The same note has to be made as footnote in the relevant copies of documents filed and to be signed by the Registering Officer. If it is scanned document, then the note has to be made in a separate white paper, signed by the Registering Officer and to be linked to the main document.
 - (iv) The genuine owner of the property should be allowed to proceed with further registration irrespective of the fraudulent registration with respect to the said property.
 - (v) No further registration of documents can be done based on the fraudulent document.
10. Further, it has been stated that District Registrars / Deputy Inspector General of Registration in his/her proceedings should direct the Registering Officers that no registration of documents should be done based on the fraudulent document as declared by the District Registrar. The genuine owner of the property should be allowed to proceed with further registration irrespective of the fraudulent registration with respect to the said property.

The above instructions should be followed scrupulously without fail. If anybody found ignoring / neglecting the above order, it would be viewed very seriously.

The DIGs, are instructed to obtain acknowledgement from all the District Registrars(admin) working under their control and submit to this office immediately for submitting compliance to the Hon'ble Court.

Sd/-09.07.2021

Inspector General of Registration

//By Order//

For Inspector General of Registration

To

All District Registrars(Admin)

Copy to

1. The Secretary to Government,
(Commercial Taxes and Registration)
Chennai – 600 009.
2. All DIGs and Additional IGR(S&R),
3. All Registering Officers.