Office of Inspector General of Registration,

Chennai-600028.

CIRCULAR

Letter No:-33760/U1/2022 dated.27.09.2022

Sub: Fraudulent Registration – Tamil Nadu Act No. 41 of 2022 passed by Tamil Nadu legislative assembly received the assent of the Hon'ble President on 6-8-2022 – notified on 16-8-2022 – Enquiry to be conducted – Procedure prescribed – Regarding.

Ref:
1. Inspector General of Registration Circular No: 67 Dated. 03.11.2011.
2. Inspector General of Registration, Letter No.41530/U1/2017, Dated. 20.10.2017.
3. Inspector General of Registration, Letter No.41530/U1/2017, Dated. 08.11.2017.
4. Inspector General of Registration, Letter No.41530/U1/2017, Dated. 09.11.2018.
5. Inspector General of Registration Letter No.41530/U1/2017, Dated. 25.03.2022.
6. Tamil Nadu amendment Act, 41 of 2022 published in Tamil Nadu Government Gazette Dated 16-08-2022.
7. G.O Ms. No. 1580 dated 24-11-2008, Home (Pol-VII) Dept Dated. 24-11-2008

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1. Vide reference 1st cited a mandatory procedure to deal with the complaints relating to fraudulent registration through impersonation or production of false/fake documents and evidences and to annul the registration of the documents if proved was withdrawn vide circular 2nd cited since Hon'ble SC in Satyapal Anand Vs. State of M.P & Ors (2016) 10 SCC 767 ordered that Department do not have any power to cancel the registered document.

2. (i) Vide circular 3rd cited a mandatory procedure was prescribed by invoking Section 69 of the Registration Act, 1908 by the Inspector General of Registration in respect of fraudulent registration directing the District Registrars

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(Admin) to conduct enquiry under Section 68(2) of Registration Act 1908 and instructed to pass speaking order.

(ii) Vide circular 4th cited, the Deputy Inspector Generals of Registration were appointed as appellate authority for the orders passed by District Registrars under Section 68 (2) of the Registration Act, 1908. Vide circular 5th cited clear instructions were issued how to pass orders while enquiring the fraudulent document as per circular cited in the 3rd reference.

3. The Tamil Nadu legislative assembly passed Act No. 41 of 2022 to amend the Registration Act, 1908 in its application to the State of Tamil Nadu in which a new Section 22 – B has been inserted to the Registration Act, 1908. Further, powers are provided to the Registrar to cancel the document if it is found registered in contravention of section 22–A or section 22 – B of Registration Act, 1908. So, to implement the above amendment the following instructions are issued.

4. Section 22–A of the Registration Act, 1908 is extracted here

22–A. Refusal to register certain documents– Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely:

(1) instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease,

(i) belonging to the State Government or the local authority or Chennai Metropolitan Development Authority established under section 9–A of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972);

(ii) belonging to, or given or endowed for the purpose of, any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) is applicable;

(iii) donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958 (Tamil Nadu Act XV of 1958); or

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(iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995 (Central Act 43 of 1995),

unless a sanction in this regard issued by the competent authority as provided under the relevant Act or in the absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer;

(2) instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned:

Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site.

Explanation I.----------

(3) instrument relating to cancellation of sale deeds without the consent of the person claiming under the said sale deed.

5. Section 22-B of the Registration Act, 1908 is extracted here

"22-B. Refusal to register forged documents and other documents prohibited by law :- Notwithstanding anything contained in this Act, the registering officer shall refuse to register the following documents, namely:-

(1) forged document;

(2) document relating to transaction, which is prohibited by any Central Act or State Act for the time being in force;

(3) document relating to transfer of immovable property by way of sale, gift, lease or otherwise, which is attached permanently or provisionally by a competent authority under any Central Act or State Act for the time being in force or any Court or Tribunal;

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(4) any other document as the State Government may, by notification, specify.".

6. Section (5-A) of the Registration Act, 1908 defines "forged document" as below

"forged document shall have the same meaning assigned to it in section 470 of the Indian Penal Code, 1860"

Section 470 of IPC reads thus:

"470. **Forged [document or electronic record].**– A false document or electronic record made wholly or in part by forgery is designated "a forged document or electronic record".

The word 'false document' has occurred in Section 470, as if it is made wholly or in part by forgery which is designated "a forged document". Since the words "by forgery", is indicated in section 470, the meaning of the word "forgery"as provided under IPC in section 463, can be taken into aid. Section 463 of IPC read thus:

"463.Forgery–Whoever makes any false documents or false electronic record or part of a document or electronic record with intent to cause damage or injuiry to the public or to any person or to support any claim or title or to cause any person to part with property, or to enter into any express or implied contact, with intent to commit fraud or that fraud may be commited, commits forgery".

The process of making a false document also is explained in IPC under Section 464, which reads thus:

Making a false document. – A person is said to make a false document or false electronic record

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First . – Who dishonestly or fraudulently –

(a) makes, signs, seals or executes a document or part of a document;
(b) makes or transmits any electronic record or part of any electronic record;
(c) affixes any [electronic signature] on any electronic record;
(d) makes any mark denoting the execution of a document or the authenticity of the electronic signature.

with the intention of causing it to be believed that such document or part of document, electronic record or [electronic signature] was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly. – Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with [electronic signature] either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly. – Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his electronic signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration."

In brief the list of fraudulent documents as per Section 22–A and 22– B are given below

Sl.No	Section of Registration Act, 1908	Type of fraudulent document	Remarks
1	22–A	Land belonging to the State Government or the local authority or Chennai Metropolitan	

		Development Authority	
2	22-A	Land belonging to, or given or endowed for the purpose of, any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959	Properties of HR & CE and Mutt
3	22-A	Land donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958	Bhoodan Lands
4	22-A	Land of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995	Wakf board lands
5	22-A	Unapproved house sites (Except the house sites registered as house sites before 20-10-2016.	
6	22-A	Cancellation of sale deeds without the consent of the claimant	
7	22-B	Forged document	1. Document registered through impersonation 2. Property claimed through forged documents like patta, tax receipt, death certificate, legal heir ship certificate etc. 3. Property claimed through previously forged

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			registered documents
8	22-B	Document relating to transaction, which is prohibited by any Central Act or State Act for the time being in force	
9	22-B	Document relating to transfer of immovable property by way of sale, gift, lease or otherwise, which is attached permanently or provisionally by a competent authority under any Central Act or State Act for the time being in force or any Court or Tribunal	Registering the documents containing attached properties
10	22-B	Any other document as the State Government may, by notification, specify	

7 .If any document is registered in violation of the above two sections, the affected party can give application for cancellation of the document. The application should be enclosed with the form-I along with this circular. The applications received for cancellation of documents on or after 16th August 2022 should only be taken under sec 77-A of the Registration act.

8. Once, an application for cancellation of a registered document is received, it should be verified whether any violation has been made against Section 22-A or Section 22-B of Registration Act, 1908. In case of no violations, the application should be rejected at once.

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9. If the application is admitted, a notice has to be sent to all the parties of the document in question and other subsequent documents of the same property registered through registered post with acknowledgment, to show cause as to why the registration of the document shall not be cancelled. With the show cause notice, the petition given by the petitioner and any other evidence provided by the petitioner should be enclosed demanding a reply within 15 days. If reply is not received within the stipulated date as indicated in the show cause notice, a second notice to be sent to the parties concerned by giving an additional 15 days for their response. In case, if there is any requirement to call for further document or evidence, enquiry is needed, the Registrar can call the concerned parties for enquiry.

10. If the party responds for second notice or does not respond, then the reply and petition or petition as the case may be and other evidences are to be considered. If it is found that the document is registered in violation of Section 22-A or 22-B, then the document concerned and any subsequent documents with the same property shall be cancelled by the Registrar and a detailed speaking order has to be passed. It should be mentioned that against this order, appeal may be preferred within one month to the Inspector General of Registration mentioning the office address of IGR under section 77-B of Registration Act, 1908. If it is a civil dispute, then the party has to be directed to approach the jurisdictional civil court to redress their grievances. In any case, orders should not be passed cancelling the document, in matters which involves civil dispute.

11. Further, a note in the index of those cancelled document shall be added as "The document is cancelled by DR in his / her proceedings ---------- under section 77 - A of Registration Act, 1908 since it violates Section 22-A / 22-B of Registration Act, 1908 ---------- (state the reason)." The same note shall be added in scanned image by adding the note in white paper with registering officer's sign and linking it with the original image.

12. If any offence under section 82 of Registration Act, 1908 is proved, then Registrar shall order to initiate criminal proceedings under the section against those offenders. If any registering officer is found to have registered a document in contravention of section 22-A or section 22-B, then criminal action shall be

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initiated under section 81-A of Registration Act, 1908.. While providing the complaint, the G.O issued vide reference 7th cited may be quoted since as per Hon'ble HC order, the Government order was issued and it states that a FIR shall be registered compulsorily in the cases of registration of fraudulent documents.

13. The enquiry under section 68 (2) of Registration Act, commenced vide circular 3rd cited and appeal filed / commenced 4th cited shall not be terminated since, the amendment is not a bar to that enquiry. If any application is given to District Registrar after 16-8-2022, the enquiry shall be initiated under section 77-A of Registration Act, 1908. Further, if anybody files fresh petition again for those cases for which enquiry under section 68 (2) of Registration Act, 1908 is under progress or for which order is passed under section 68 (2), then enquiry shall be started afresh under section 77-A of Registration Act, 1908. Among the cases for which orders passed under section 68 (2) of Registration Act, 1908, only those cases for where violation taken place under Section 22-A and 22-B of Registration Act, 1908, the enquiry under section 77-A of Registration Act, 1908 can be taken up afresh, otherwise it can be rejected without any enquiry.

The difference between the enquiry under 68 (2) and 77-A are listed as below for clarity.

Sl.No.	Enquiry u/s 68(2)	Enquiry u/s 77-A
1	Enquiry has been done based on the circular issued invoking the power under section 68 of the Registration Act, 1908	Enquiry is to be done based on Act No. 41 of 2022, an amendment passed by the Legislative Assembly separately for this purpose.
2	The fraudulent document can't be cancelled. Only it can be declared fraudulent.	The fraudulent document can be cancelled as per section 77-A of the Registration Act, 1908
3	Appeal lies with DIG	Appeal lies with Inspector General of Registration

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4	The documents registered in contravention of the provisions of Acts, Rules, Government orders and circulars can be declared as fraudulent	The documents registered in contravention of section 22-A and 22-B can be cancelled.
5	Civil dispute will not be taken for enquiry.	Civil dispute will not be taken for enquiry

14. Further, it is clarified that the clarification issued vide reference 5th cited will be applicable to the enquiry conducted under section – 77-A Registration Act, 1908 also. If any violation is noticed against this circular, then it will be viewed seriously.

15. If the forged document is registered outside the jurisdiction of the concerned District Registrar under section 28 of The Registration Act, 1908, the jurisdictional District Registrar can enquire and pass orders.

16. The enquiry shall be completed within three months. Further, a register in the format prescribed for Section 68(2) enquiry shall be maintained for enquiry under Section 77A also.

Sd /- 27.09.2022
Inspector General of Registration

//By Order//

27/9/22
for Inspector General of Registration

27/9

To
All Deputy Inspector's General
All District Registrars (Admin),
Copy to
All Additional IGR
All Registering Officers.
Stock file / Website.

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