

O/o Inspector General of Registration,
Chennai-28.

Circular

R.C.No.29639/C2/2018 Dated. 22.01.2019.

Sub: Registration of Deposit of Title Deeds – Stamp Duty and
Registration Fee leviable on Deposit of Title Deeds –
clarification – regarding.

- Ref: 1. Inspector General of Registration Letter No.
49471/C2/2005 dated 8.9.2005.
2. Inspector General of Registration Letter No.
55656/C2/2005 dated 9.10.2005
3. Inspector General of Registration Letter No.
55656/C2/2005 dated 7.2.2006
4. Inspector General of Registration Letter No.
21889/C2/2006 dated 2.10.2006
5. Inspector General of Registration Letter No.
59477/C2/2006 dated 12.1.2007
6. Inspector General of Registration Circular No. 9/C2/2009
dated 6.4.2009
7. Inspector General of Registration Circular
No.10/C2/2009 dated 8.3.2010 (with reference to
G.O.Ms.No.73, CT & R, dated 22.7.2006)
8. Inspector General of Registration Circular
No.189/C1/2013-2 dated 22.1.2013
9. CCRA proceedings No. 41277/P1/2013 dated 16.12.2013
10. Inspector General of Registration Letter D.Dis.No.
28192/P1/2014 dated 8.9.2014
11. Inspector General of Registration Circular
No.49932/P1/2015 dated 6.11.2015

Vide reference 1st cited, certain clarifications were issued, wherein it was clarified that even if a title deed belonging to a third person is deposited for the loan obtained by another person, the stamp duty would become payable as applicable to Memorandum of Deposit of Title Deed only.

The clarifications issued vide reference 2nd and 3rd cited were re-examined and withdrawn. A revised circular was issued vide reference 4th cited. In the circular 4th cited, it was clarified that even if a Deed of Deposit of Title Deed contains the following words / clauses, it has to be classified under Art. 6 of Indian Stamp Act 1899 but not as a Mortgage.

1. The property would remain as security until repayment of loan is completed.
2. Right to create an equitable mortgage over the property.
3. The loan will be repaid with interest within a specified time frame
4. The words 'mortgagor' and 'mortgagee' are used
5. The sentence "with intent to create a charge over the property" is used.
6. Even if the documents are deposited in the non-notified areas.

Vide reference 5th cited, a draft DOT deed received from Indian Overseas Bank was circulated and it was clarified that stamp duty and registration fee may be levied as per Art. 6 of the Indian Stamp Act, 1899.

Vide reference 6th cited, it was clarified that there could be no prohibition for using the words "Security Owners" in the DOT deeds and also that Registering officers should not insist the registrants to state in DOT deeds the sentence "no charge is created on the property by the document".

Vide reference 7th cited, in respect of stamp duty remission granted in G.O.Ms.No.73, dated 22.7.2006 for documents of deposit of title deeds executed by Farmers and Entrepreneurs of Micro Industries, certain clarifications were issued.

Vide reference 8th cited, it was clarified that maximum registration fee should not be levied if 1% registration fee payable on the amount secured is less than the capping provided for registration fee.

Vide reference 11th cited, the references cited in 9th and 10th were superseded as per Hon'ble Supreme Court order in Civil Appeal No. 6054 of 2015 and a revised clarification was issued. In the said letter, it was clarified that creation of Mortgage by Mortgagor in favour of Security trustee to secure the repayment of loan facility extended by multiple lenders has to be treated as distinct matters under Sec.5 of the Indian Stamp Act and accordingly such deed shall be levied with as many stamp duty in tune with number of lenders.

Now it has come to notice that Registering Officers are having doubts regarding levy of Stamp duty and registration fee on Deposit of title deeds in certain contingencies. Hence the following clarifications are issued in this regard.

S.No.	Doubt	Clarification
1	No. of Stamp duty/Registration fee leviable when multiple persons depositing title deeds for loan(s) availed from single lender.	a. When such deposit of title deeds are made without earmarking any of the title deeds deposited towards any of the loan amount, all the deposits would remain as common security, and as such the deed will attract single stamp duty/registration fee. The reason is that all the deeds deposited will act as common security for each and every loan

S.No.	Doubt	Clarification
		on the whole and cannot be redeemed until whole loan amounts availed by all the borrowers are repaid fully. b. When such deposit of title deeds are made thereby specifically earmarking any of the title deeds deposited towards any of the loan amount, the same will attract multiple stamp duty/registration fee in accordance with such earmarking.
2	No. of Stamp duty/Registration fee leviable when one person/more persons making deposit of his/their title deeds for loan availed from multiple lenders:	This will attract multiple stamp duty/registration fees as settled in Civil Appeal no. 6054 of 2015.
3	No. of Stamp duty/Registration fee leviable when one person depositing his title deeds for loan availed by more than one person from single lender.	This will attract single Stamp duty/registration fee. The reason is that though multiple loans are availed, only one person enters into contract with single lender and as such application of Sec.5 of Indian Stamp Act is not warranted.
4	No. of Stamp duty/Registration fee leviable when a deed of deposit of title deed recites about the present	a. If the previous deposit of title deeds have been already reduced into writing and the same bears proper stamp duty

S.No.	Doubt	Clarification
	loan as well as about the earlier deposit of title deeds..	no further duty / fee with respect to earlier deposits is required. b.If the previous deposit of title deeds made on different dates have not been already reduced into writing, multiple stamp duty and registration fee with respect to earlier deposits becomes leviable in tune with number of deposits made on different dates.
5	Stamp duty, registration fee leviable on a deed of deposit of title deed containing the recitals to the effect that "loan amount of Rs... and any other further sum that may be given in future shall be secured by this deed."	In Sec.26 of the Indian Stamp Act, it has been stipulated that where the amount or value of the subject matter of any instrument chargeable with ad-valorem duty cannot be or could not have been ascertained at the date of its execution nothing shall be claimable under such instruments more than the highest amount of value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution have been sufficient. Hence, stamp duty and registration fee for the loan amount stated in the document is sufficient. There is

S.No.	Doubt	Clarification
		no need for collecting the maximum stamp duty and registration fee.
6	Whether Stamp duty concession granted in G.O.Ms.No.73, dated 22.7.2006 for deposit of title deed executed by Farmers in favour of Banks can be granted only if underlying property is agricultural land.	In the said G.O, there is no condition that the land should be agricultural land. Therefore, stamp duty concession can be extended even if title deeds relating to property other than agricultural land are deposited.
7	Whether Stamp duty concession accorded in G.O.Ms.No.73, dated 22.7.2006 can be granted if the person who makes the deposit is a farmer but the person who avails the loan is not a farmer.	Stamp duty concession can be granted only if the title deeds of the farmer are deposited for the loan availed by him.


 22/01/19
Inspector General of Registration

To

All Deputy Inspectors General of Registration,
 All District Registrars,
 All Sub Registrars.

Copy to

- 1.The Director Registration Training Institute,
 Chennai -14
- 2.Stock file