

Office of the Inspector General of Registration

Chennai – 600 028.

Circular**No.22482/C1/2022, Dt.02.02.2023.**

Sub: Registration Act 1908 – Amendment to Rule 55 of the Registration Act – Implementation of Rule 55A – Refusal of registration of documents on non-production of previous original deeds for mandatory verification by the Registering Officers – Representation from public for relaxation of rule 55A under certain conditions and circumstances – Recommendation of committee - Opinion of Addl. Advocate General - II on Recommendations of committee formed – Instructions issued – reg.

- Ref:**
1. Inspector General of Registration circular No. 42938/C1/2009 dated 29-10-2009.
 2. Inspector General of Registration circular No. 18339/C1/2012 dated 25-4-2012.
 3. Inspector General of Registration circular No. 16168/C1/2016 dated 28-7-2016.
 4. Inspector General of Registration circular No. 25600/C1/2018 dated 7-6-2018.
 5. Inspector General of Registration circular No. 25600/C1/2018 dated 13-6-2018.
 6. Inspector General of Registration circular No. 25600/C1/2018 dated 1-11-2018.
 7. Orders of Hon'ble Madras High Court in W.A.1989 of 2019, Dated.30.04.2021.
 8. Rule 55A of Registration Rules, 1949 issued vide G.O.Ms.No.129, Commercial Taxes and Registration (J2) Department, Dated.05.09.2022 and published in the Tamil Nadu Govt. Gazette, extraordinary No.438 dated 05.09.2022.
 9. Proceedings of Inspector General of Registration No.22482/C1/2022, Dated.09.12.2022 forming committee to review the exemptions on PR verification.
 10. Recommendations of the committee dated 27-12-2022.
 11. Opinion of AAG-II of Tamil Nadu F B No 6 of 2023 Dated.20.01.2023 and 01.02.2023.

To prevent the registration of forged document, various circulars cited from 1 to 6 in the reference were issued instructing registering officers to verify original previous deed before registration of documents involving immovable properties.

In the reference 7th cited Hon'ble High Court upheld the circular issued by the Inspector General of Registration instructing to verify the original title deed, in order to prevent fraudulent registration. Further, the Hon'ble Madras High Court, has directed to incorporate the instructions in rules.

As per the direction of Hon'ble High Court, vide Notification cited in reference 8th cited and consequent Notification in the Tamil Nadu Government Gazette, a new Rule 55 A has been incorporated in the Registration Rules, 1949. The Rule 55A enables registering officers to refuse registration of a document relating to immovable property unless the presentant produces previous original deed by which executant acquired right over the property and an Encumbrance Certificate pertaining to the property etc.,

As per the proviso to this rule it has been stated that production of the previous original deed shall not be necessary where the Government or a Statutory body is the executant of the document or for such class of documents as may be notified by the Inspector General of Registration, from time to time.

Various relaxations were issued for the verifications of original title deed in the circulars cited in the reference 1 to 6. With regard to the above Rule Amendment, these relaxations are required to be notified through a fresh circular. Further, representations from public were received for relaxation of rule 55A under certain conditions and circumstances. Accordingly a committee was formed to take in to account such representations vide reference 9th cited. The committee deliberated various issues in the production of the original deed during registration and at the same time the committee discussed the prevention of registration of fraudulent document. Finally the committee vide reference cited 10, has given its suggestions. The committee's suggestions were referred to the Additional Advocate General – II soliciting his considered opinion. Vide reference 11th cited AAG –II has given his considered opinion.

The committee's findings and opinion of the AAG – II has been gone through carefully and it has been decided to dispense with production of original documents in respect of following cases.

1. If original documents are deposited with Nationalized Banks, Private Banks, Housing Financial Institutions, Non-Banking Financial Institutions and any other Public Sector Undertakings or Government related Agencies for availing a loan or a credit facility or for any other purpose under "Deposit of Title Deeds" arrangement; provided the authorities concerned issue a certificate to the effect that the original documents relating to the property concerned have been deposited with them or deposited but misplaced or lost by them.
2. In respect of plots/ flats executed by promoters, it is enough that the original documents are insisted for the first transaction alone and for the registration of the remaining plots/flats, it need not be insisted if the subsequent documents are being executed by one and the same person. However this exemption shall not be applicable to the subsequent purchasers, who need to produce the original documents standing in his/her name.
3. As stated in the proviso clause to Rule 55A, in respect of instruments executed by Government Departments, Local Bodies, Government undertakings such as, TNHB, TNUHDB, CMDA, TNPHCB, SIDCO, TIDCO, ELCOT etc., production of original documents need not be insisted.
4. In respect of Partition, Settlement, Exchange, Release and Will deeds which have not been registered with duplicate wherein the property is allotted to more than one person, it would have been mentioned that the original document is/will be held by whom. If any document has to be registered subsequently with respect to that person whose name has been recited to hold the original document,

then it is mandatory for that person to produce the original with respect to his/her share of the property. However the other co-owners/coparceners need not be insisted to produce the original document. If the name of original document holder is not mentioned then the original document which is registered without duplicate need not be insisted for all co-owners/coparceners.

5. In respect of an instrument through which a major portion of the property, say, 80 Cents out of one Acre or so, is conveyed to a purchaser stating that the original instrument is to be handed over to the purchaser then such an executant could be exempted from producing the original with respect to any document pertaining to the executant's remaining portion of 20 cents.
6. For cancellation of Power of attorney.
7. For registration of Will.

The above relaxations which were already issued vide circulars cited in the reference 1 to 6 are again extended. Further the following relaxations are also issued under rule 55 A.

- (a) For the documents presented online for registration.
- (b) When original documents deposited vide Deposit of Title Deeds to Nationalized Banks, Private Banks, Housing Financial Institutions and Non Banking Financial institutions then for the registration of further Deposit of Title Deed to the same bank for the enhancement / modification / additional facilities to the existing loan.
- (c) Original documents handed over to the Court, provided the authorities concerned issue a certificate to the effect that the original documents relating to the property concerned have been deposited with them.

- (d) When any instrument is being executed by or claimed by HR&CE and Wakf Board.
- (e) The instruments by which the property is claimed by Government Departments, Local Bodies Government undertakings such as, TNHB, TNUHDB, CMDA, TNPHCB, SIDCO, TIDCO, ELCOT, CMRL etc.
- (f) If the property is purchased by the Father/Mother and after his/her intestate demise, if his/her legal heirs claim that the original document is with one of the legal heirs and he/ she is refusing to handover the original deeds, then on a petition being made to that effect, an enquiry shall be conducted by an Officer not below the rank of the District Registrar by calling all the legal heirs concerned. In such cases even if any of the legal heirs fail to attend the enquiry or refuses to divulge the possession of original document, then the Enquiry Officer shall permit registration on getting sworn affidavit from the presentant and others who attend enquiry to that effect. The same exercise of getting sworn affidavit can be followed in cases where all the legal heirs submit that the original documents is not in possession of any others.
- (g) The above procedure shall be applicable for any property which is being owned by co-owners also.
- (h) If sale agreement is made between land owner and proposed purchaser which has been registered and for any document being presented for registration, after the due limitation period, if the land owner claims the original deed is with the agreement holder, then also the procedure elaborated in para "f" shall be followed.
- (i) When Power of Attorney is being given only with regard to part of the property covered in an original deed, in such cases the original document will be held by the Principal hence in such cases for any

document being executed by the Power Agent, the Power document alone shall be treated as the original document.

(j) As stated in S.No.,6 supra, since production of original documents are to be exempted for cancellation of Power Document, any further documents to be executed by the Principal shall be allowed based on the original Power cancellation deed without insisting for the other original deeds.

(k) In cases of any instrument being executed by any of the beneficiaries vide a registered Will document, claiming that the original Will / other related title deeds are being held by any other family member/stranger, such claims shall be decided as per the procedure formulated in para "f", above.

Registering officers are directed to strictly adhere to the above instructions in letter and spirit. DR and DIG's are instructed to supervise the compliance of the above instructions by the registering authority.

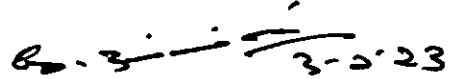
The original deed verified in other cases, has to be certified by the registering authority in the first page writing as "Verified" as instructed in the circular in the reference 4th cited. This has to be verified by the District Registrar (Audit) during the audit. If any deviation, in verification of original document has to be remarked by them without fail.

The receipt of the circular is to be acknowledged by all hierarchically.

Sd/-02.02.2023

Inspector General of Registration.

/By order/

 3-2-23

Addl. Inspector General of Registration

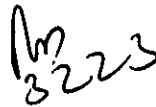
(Stamps and Registration).

To

All Registering Officers,

All District Registrars (Admin and Audit),

All Deputy Inspectors General of Registration,

 3-2-23

Copy to:

1. All Officers of Office of IGR,
2. The Secretary to Govt.
Commercial Taxes and Registration Department,
Chennai 9.
3. The Special Govt. Pleader,
Madras High Court,
Chennai - 104.
4. Stock File.

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