

Office of the Inspector General of Registration,
Chennai-28.

Circular

R.C.No.7154/C1/2015, dated 30.1.2019

Sub: Registration of Power of Attorney –Registration of further documents using the Power of Attorney - certain clarifications–Regarding.

- Ref:**
1. Inspector General of Registration Letter No. 42938/C1/2009 dated 18.12.2009.
 2. Tamil Nadu Amendment Act No.29 of 2012 implemented with effect from 1.12.2012.
 3. Inspector General of Registration Letter No. 7542/C1/2016 dated 25.2.2016.

Vide reference 1st cited, certain clarifications were issued, with respect to registration of Power of Attorney as well as further registration of documents using the Power of Attorney.

Vide reference 2nd cited, the registration of Power of Attorney involving immovable property has been made compulsory. After passing of this Act, certain doubts were raised by the Registering Officers and to clarify the doubts, the following clarifications are issued.

Vide reference 3rd cited certain clarifications with respect to Special Power of Attorney has been issued.

It has come to notice that still certain doubts persist among registering officers regarding matters relating to registration of Power of attorney. Hence following clarifications are issued.

Sl.No.	Doubt	Clarification
1	Whether the registration of Power of Attorney is compulsory?	If one or more individual is/are granting Power of Attorney relating to immovable property (other than those executed outside India) to one or more persons, then the registration becomes compulsory on or after 1.12.2012, as provided in Tamil Nadu Act 29 of 2012. If the Power of Attorney granted is in respect of movable property then the registration is optional. Similarly if the Power of Attorney has been granted in respect of immovable property before 1.12.2012 then the registration is also optional.
2	Whether an unregistered deed of Power of Attorney relating to immovable property executed outside India can be accepted for registration of further documents?	Sec 17(1) (h) of the Registration Act, 1908, mandates compulsory registration of "instruments of Power of Attorney relating to immovable property <u>other than those executed outside India</u> " Thus, any Power of Attorney relating to immovable property executed outside India does not require compulsory registration. Consequently further document presented (based on such unregistered Power of Attorney executed outside India) can be accepted for registration.
3	Whether the General Power of Attorney deed relating to immovable property	Though the amended Section 28 (a) of the Registration Act stipulates that "Power of Attorney shall be presented

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	<p>registered outside Tamil Nadu can be accepted for registration of further documents?</p>	<p>for registration in the office of the Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate in the State of Tamil Nadu", the Proviso clause appended to said clause (a), on the other hand stipulates that Power of Attorney may also be presented for registration in the office of the Sub-Registrar within whose jurisdiction the Principal ordinarily resides.</p> <p>Section 28 (b) of the Registration Act, 1908 says "any document registered outside the State of Tamil Nadu in contravention of the provisions of clause (a) shall be deemed to be null and void"</p> <p>The Power of attorney relating to immovable property situated in Tamil Nadu which is registered in other States is saved from the sweep of Section 28(b) by the proviso clause appended to Section 28(a). Hence there could be no bar for a Power of Attorney being registered outside the State of Tamil Nadu if the principal happens to reside ordinarily in a place which is situated in a State other than Tamil Nadu.</p> <p>Therefore it is clarified that such Power</p>

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		<p>of Attorney registered with Registrar / Sub Registrar of other States in India, within whose jurisdiction the principal ordinarily resides can be used for execution and registration of further documents in Tamil Nadu for properties situated in the State of Tamil Nadu.</p> <p>b) However in such cases, the registering officer shall keep the registration of further document pending and verify the genuineness and subsistence of Power of Attorney with the concerned Authorities in writing and only upon receiving the confirmation from the competent Authorities, they shall proceed to register the same in accordance with law.</p> <p>c) Further, as far as Power of Attorney registered in other States is concerned, compliance of provisions contained in Section 34-B and 64-A of the Registration Act 1908 as inserted by Tamil Nadu Act 29/2012 need not be insisted.</p>
4	Whether a Power of Attorney executed outside India not having property details can	Sec. 21 of the Registration Act, 1908, prescribes that immovable property shall be described sufficiently in the

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	be allowed for registration of further documents?	document so as to identify the same. Hence, if a Power of Attorney does not have property details in accordance with section 21, it cannot be accepted for further registration of documents. If a Power of Attorney is given only for purchase of property, the same could not be expected to indicate the exact property description details. Hence such POA for purchase can be accepted for registration of Sale deed, Mortgage/DOT and related documents.
5	Whether authorising a person to execute and present a document on behalf of a Company/Partnership Firm/LLP by the Partners/Directors has to be treated as POA requiring compulsory registration?	Such authorisation cannot be considered as a Power of Attorney. Since, all the Partners/Directors of the Company/Partnership Firm/LLP cannot execute a document, it becomes necessary for them to identify a suitable person to execute the document on behalf of Company/Partnership Firm/LLP through a resolution/authorisation. This resolution/authorisation should be enclosed as part of the document.
6	Whether the signature of Power Agent and production of original Power of Attorney is/are required for cancellation of Power of Attorney?	This has been clarified in Sl.No.11 vide reference 1 st cited. This clarification is reiterated.
7	Whether a Power Agent can	Section 190 of the Indian Contract Act,

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	<p>appoint another Power Agent and whether any document can be accepted for registration, if such sub-power agent presents document.</p>	<p>1872 is extracted as follows:</p> <p><i>"When agent cannot delegate.—An agent cannot lawfully employ another to perform acts which he has expressly or impliedly undertaken to perform personally, unless by the ordinary custom of trade a sub-agent may, or, from the nature of the agency, a sub-agent must, be employed".</i></p> <p>Hence as per law, a Power Agent cannot appoint a sub-agent for registration of document relating to immovable property, and as such any document presented by such sub-power agent cannot be accepted for registration.</p>
8	Whether a company/ Partnership firm/LLP can be appointed as an Agent?	Vide circular 3 rd cited this point has been clarified. A company/Partnership firm/LLP can be appointed as an Agent.
9	What is the jurisdiction for registration of deed of cancellation of Power of Attorney?	A deed of revocation or cancellation of Power of Attorney can be registered either where the property is situated or within the jurisdiction the principal ordinarily resides at the time of registration of cancellation/revocation deed.
10	Whether a deed of cancellation relating to a	Such Cancellation deed has to be registered in Book I. The jurisdiction

Sl.No.	Doubt	Clarification
	previous deed of the Power of Attorney relating to immovable property registered in Book IV prior to 1.12.2012 can be registered in Book I or Book IV?	mentioned in Sl.No. 9 shall apply for such cancellation deeds.

[Signature] 20/01/2019
Inspector General of Registration

To

All Deputy Inspector General of Registrations,

All District Registrars,

All Sub Registrars.

ISSUED BY: DIPR, Secretariat, Chennai - 9