Circular/Top priority

Office of Chief Commissioner
of Land Administration,
T.S, Hyderabad

Circular No.7
CCLÀ’s Circular No. CMRO/162/2014, Dt: 22-03-2016

Sub: CMRO Project – O/o CCLÀ – Certain guidelines on Validation of Registration documents - Regarding.

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Attention of all the District Collectors is invited to the subject cited. It is brought to the notice of the Government that more than often unscrupulous elements resort to validation of documents by paying the requisite Stamp Duty and seek to redress grievances, such as survey of land, identification of Boundaries on land etc.,. The common modus operandi is to create a Sale Document or other documents like sale agreement, gift etc., on Ante dated Stamp papers and getting the said documents validated U/s 33, 38, 40 & 42 of the Indian Stamp Act, 1899. Such documents cannot be equated with registered documents, which were registered under the provisions of Registration Act, 1908 and bears a certificate under Section 60 of the Registration Act, 1908. Registration process involves besides checking details of the Lands online with the Telangana Land Records Management System [TLRMS- formerly WEBLAND], presentation of document, admission of execution and enquiry by registering authority as per the provisions.

The excerpts of the key Sections “33 & 40” of the Indian Stamp Act, 1899 and Sections “49 & 60” of the Registration Act, 1908 are as follows:

Section “33 & 40” of The Indian Stamp Act, 1899 reads

“33. Examination and impounding of Instruments –

(1) Every person having by law or consent of parties, authority to receive evidence, and every person in charge of a public office, except an office of police, before whom any instrument, chargeable, in his opinion, with duty, is produce or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in India when such instrument was executed or first executed:

Provided that –

(a) Nothing herein contained shall be deemed to require any Magistrate or Judge of a criminal court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under chapter XII or chapter XXXVI of the code of criminal procedure, 1898 (5 of 1898):

(b) In case of a judge of a High court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.
(3) For the purposes of this section, in cases of doubt—
   (a) The state Government may determine what offices shall be deemed to be
       public offices; and
   (b) The state Government may determine who shall be deemed to be persons in
       charge of public officers.

40. Collector's power to stamp instruments impounded:
   (1) When the Collector impounds any instrument under section 33, or receives any
       instrument sent to him under section 38; sub-section
   (2), not being an instrument chargeable with a duty of twenty paise only or a
       mortgage of crop (Article 36(a) of Schedule -IA) chargeable under clause (aa)
       or (bb) of section 3 with a duty of forty paise or a bill of exchange or promissory note,
       he shall adopt the following procedure:
   (a) if he is of opinion that such instrument is duly stamped, or is not chargeable with
       duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not
       so chargeable, as the case may be;
   (b) if he is of opinion that such instrument is chargeable with duty and is not duly
       stamped, he shall require the payment of the proper duty or the amount required to
       make up the same, together with a penalty of the five rupees; or, if he thinks fit, an
       amount not exceeding ten times the amount of the proper duty or of the deficient
       portion thereof, whether such amount exceeds or falls short of five rupees:
       PROVIDED that, when such instrument has been impounded only because it has
       been written in contravention of section 13 or section 14; the Collector may, if he
       thinks fit, remit the whole penalty prescribed by this section. (2) Every certificate
       under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive
       evidence of the matters stated therein.
   (3) Where an instrument has been sent to the Collector under section 38, sub-section
       (2), the Collector shall, when he has dealt with it as provided by the section, return it
       to the impounding officer.

Section “49 & 60” of the Registration Act, 1908 reads

49. Effect of non-registration of documents required to be registered:

No document required by section 17 or by any provision of the Transfer of Property
Act, 1882 to be registered shall— (a) affect any immovable property comprised
therein, or (b) confer any power to adopt, or (c) be received as evidence of any
transaction affecting such property or conferring such power, unless it has been
registered: Provided that an unregistered document affecting immovable property
and required by this Act or the Transfer of Property Act, 1882, to be registered may
be received as evidence of a contract in a suit for specific performance under Chapter
II of the Specific Relief Act, 1877. *[xxx] or as evidence of any collateral transaction
not required to be effected by registered instrument

“60. Certificate of Registration:

   (1) After such of the provisions of Sections 34, 35, 58 and 59 as apply to any
document presented for registration have been complied with, the Registering Officer
shall endorse thereon a certificate containing the word ‘registered’, together with the
number and page of the book in which the document has been copied.
   (2) Such certificate shall be signed, sealed and dated by the Registering Officer, and
shall then be admissible for the purpose of proving that the document has been duly
registered in manner provided by this Act, and that the facts mentioned in the
endorsements referred to in Section 59, have occurred as therein mentioned.”
The District Collectors are therefore directed to instruct the concerned officials not to take cognizance of any such documents which are merely validated under the Indian Stamp Act 1899, with a view to create a right on land they need to be scrupulously examined before taking any action. The Revenue officials must take cognizance of registered Documents under the Registration Act, 1908.

Sd/- J.Raymond Peter,
Chief Commissioner Of
Land Administration

To
All District Collectors in the State

Copy to,
(1) The Additional Principal Secretary to Hon’ble Chief Minister, T.S Hyd
(2) The Principal Secretary, Revenue Department for favour of kind information
(3) The Principal Secretary, Registration & Stamps Department for favour of kind information
(4) The Commissioner & Inspector General, Registration & Stamps Department for information and necessary action.
(5) SIO, NIC, BRKR Bhavan, Hyderabad.

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Assistant Secretary (CMRO)