

What are we doing from receipt to registration of document?

----- A story by V. Srinivasulu, DIG (Registration)

Registration department is one of the oldest wings of the State Government. Registration Act, 1908 and Indian Stamp Act, 1899 are the statutes made by the foreign rulers and adopted by Indian Parliament after independence. Registration department can be claimed itself as professional department. In the present day governance, many departments are losing their identity and slowly moving away from their core areas and forced to embrace new subjects. Registration department is one such department which still confined to, basically, the job of registration of documents. Document registration is its core function. Stamp duty collection, administering various other statutes like Societies Registration Act, Partnership Act, Marriage Acts, and Chit Funds Act are of secondary importance. Department's credential in maintenance of the records pertaining to the registered documents is peerless. Records pertaining to the years from 1860s are intact. Procedures established more than a century ago are being followed scrupulously and for the old-timers they are more than sacrosanct. The procedures are there to assure the public the benefits accruable to them under the Act.

We shall not sleep on yesterday's laurels instead we shall strive hard to keep the record intact and straight. We have to serve the society in a better manner using modern technology while keeping our basics strong and right.

Of late, some of the Registering Officers are performing their duties under the Registration Act, 1908 mechanically, even though they may not be committing any mistake. It is better to understand clearly by posing following questions -- What are we doing? Why are we doing? What the letter of the law is? And, what the spirit of the law is? This inquisitiveness will lead us to a better and proper understanding of the law.

I would like to explain you the entire registration process in the story-telling approach. I don't want to quote any statutory position, rule position, Board Standing Order or other executive instructions concerning the subject unless it is required essentially. If you are not a green-horn, bear with me.

Raja purchased a property from Rama and got the document prepared by an advocate.

Scene 1: Raja's house:

Raja and his family members placed the document before Ganesh jee and broken a coconut and prayed the God to bless them to get the document registered without any problem. Raja along with his friends and relatives started their journey to the Sub Registrar's Office.

Scene 2: Sub Registrar's Office: Sub Registrar's Office is in hustle-bustle. People are moving from one place to another. Employees are attending to their job. Raja and his family members are tense and nervous. After a while, their turn has come to place the document before the Sub Registrar.

Sub Registrar verified the document quickly to see the following:

- i) Date of execution of document - whether within 4 months from the date of execution the document has been presented or not.
- ii) In whose name the stamp papers are purchased - whether they are in the name of Raja or Rama.
- iii) Whether the scheduled property fall under the jurisdiction of his office.
- iv) Whether there are any unattested erasures, alterations, interlineations in the document.
- v) What are the consideration and the market value and which is higher.
- vi) In whose name the challan amount has been paid - whether the challan amount is paid in the name of Raja or not. Whether

- amounts are reflected in the bank scroll statement correctly or whether the challan is still in the pending challan register etc.
- vii) Calculated the stamp duty, transfer duty, registration fee and user charges payable on the document and verified the amount actually paid through challan with reference to the consideration or market value, whichever is higher.
 - viii) Whether the property falls under any class of prohibited properties and also checked the Court cases to know whether it is covered by any injunction order or attachment.
 - ix) Whether all the annexure like Annexure A, Section 32A form, Route map, photo of the property (in case of urban), pattadar passbooks and title deeds (in respect of rural properties), copies of address proof of the parties along with identifying witnesses are correctly and fully submitted.

After finding that the document is in correct shape, he proceeded further. He made some entries in his book. Then he instructed his DPO to enter the details correctly in the computer system to generate check slip by using input form submitted by the parties and also using the information in the document. Sub Registrar told his DPO to do the job carefully and with undivided attention since the information he feeds in the system will automatically get convert as Index I and Index II, which will be used by the computer to generate Encumbrance Certificates subsequently. DPO fed the details into the system and generated check slip and gave it to the Sub Registrar. Sub Registrar verified the check slip details with that of document in detail particularly the names of the parties, schedule property, consideration, market value, stamp duty paid etc. He found the details are correct.

Then, Sub Registrar asked in a louder and clear voice, Who Rama is? Rama jumped from his place and present obediently before the Sub Registrar like a student before new Head Master of the School, slowly uttering, "Sir, I am." Sub Registrar looked at him through his glasses nonchalantly and asked the following questions.

- i) Are you Rama?

- ii) Did you sell the property?
- iii) Did you receive consideration?
- iv) Did you sign the document voluntarily?
- v) Is anybody here to recognise you?

Sub Registrar handed over the document to the Office Subordinate (attender). Attender pressed a stamp which shows that so and so person on so and so date and time with corresponding telugu calendar date presented the document along with Section 32A form and requisite fee. There was also a rubber stamp which says that the execution (signing) of the document was agreed to (admitted).

Then, the attender asked Rama to put his left-hand thumb to keep in an inkpad and pressed gently and rolled the thumb both on the rider sheet of the document and thumb impression register.

Rama was asked to present two witnesses who would identify him. He introduced two persons as witnesses. Sub Registrar has asked their details and after satisfying himself regarding their credibility he asked them whether they recognize Rama. They informed Sub Registrar that they know him for long and he was Rama. Sub Registrar asked the witnesses to sign on the rider sheet certifying that they recognize Rama as executant of the document. They signed on the rider sheet and gave full details viz., Name, Father's name and address and furnished residential proof. Then Sub Registrar has signed the endorsement.

Sub Registrar has informed the parties that the thumb impression and signature of Rama were taken to record **presentation of document** and also **admission of execution** of the document by him. He explained that it is the most important aspect of registration process. Sub Registrar told his staff that the document can be presented before the Registering Officer either by the executant or claimant or authorized representative who got the power as provided under Sections 32 and 33 of Registration Act, 1908 (**Persons to present document for registration**). If any other person presents the document other than the above, then it is not valid presentation and it is incurable defect and entire process of registration is vitiated. He informed the parties that except will deed other documents have to be presented for registration within 4 months from the date of execution (**time for presenting documents**). If the parties could not present within four months, then they may present the same after lapse of four months but within 8 months from the date of signing. For the documents which have been presented after four months but within eight months, the Registering Officer while keeping the document pending would refer it to the District Registrar explaining the reasons submitted by the parties why they failed to submit the document within the four months, and if the District Registrar satisfies with the reasons, he would condone the delay by collecting the penalty of maximum of 10 times of registration fee and direct the Registering Officer to register the document. After eight months, there is no possibility to present or register the document. **Will deeds can be presented at any time.** A will can be presented even after 30 years from the date of execution. Will deed can be presented for registration by the executor or any beneficiary under the document after the death of the testator. In respect of other documents, if the executant dies before the presentation of the document, then the legal heirs of such deceased executant can present and admit the execution and get the document registered.

Rama has asked the Sub Registrar what is the difference between the persons who signed in the document as witnesses when the vendor and vendee signed and the persons now signed in the Sub Registrar Office. Sub Registrar explained to him saying that the persons who signed in the document at the time of signing the document by the vendor and vendee are called attesting witnesses. These two attesting witnesses are crucial since they have seen the very act of signing by the executants (both the vendor and vendee); and in case of any dispute these persons will be examined by the court to establish whether the execution was voluntary in nature or there was any coercion or fraud. The Sub Registrar informed Rama and Raja that the attesting witnesses shall be of good character and relatively young. Regarding two persons who signed in the Sub Registrar Office are called as identifying witnesses. These identifying witnesses got the limited role of identification of the executant(s) and they are not concerned with the contents of the document or its execution. The attesting witnesses and identifying witnesses may be same or different people.

Sub Registrar has checked the photographs and thumb impressions of the parties (**Section 32A form**) besides obtaining photographs and thumb impressions of the parties through biometrics system of the office. He explained to the parties the importance of photographs and thumb impressions of the parties obtained in a prescribed form and told them that through this process impersonation and other crimes associated with real-estate transactions have been minimized as the system gives/expects to provide a clear evidence to the investigating authorities in case of any offence particularly impersonation, benami transactions etc.

Sub Registrar has ensured that all the papers including statutory forms and proofs made part of the document are numbered in seriatim (**sheet endorsement**) and signed them.

Then he added the certificates pertaining to Indian Stamp Act, 1899 and also an endorsement stating the stamp duty paid through NJ Stamps, the stamp duty, transfer duty, registration fee and user charges paid through challan are recorded. Sub Registrar has verified the pending challan register and found that the challan produced is still there in pending challan register and entered cross references in both daily and pending challan register regarding presentation and utilization of the particular challan.

Sub Registrar has added a certificate duly signed the same containing the word “**Registered**” (**Registration Certificate under Section 60**). In this certificate he mentioned the document number, book number, cd volume number and date of registration. He explained to Raja and Rama that this certificate is the conclusive proof to inform to the world that the document has been registered as per the provisions of Registration Act, 1908 and the facts mentioned in the endorsements (referred to in Section 59) have occurred as therein mentioned.

After verifying, once again, all the endorsements, certificates and enclosures, the Sub Registrar has directed the concerned Assistant to scan the document. The document was scanned by the Assistant and verified by the Sub Registrar. An endorsement was added regarding the scanning. Sub Registrar informed the parties that prior to 1998, the Office used to copy the contents of the document as it is in the big books, but after computerization, the process of scanning was introduced and now document copies are preserved in digital form instead of recording in books. He assured the parties that the scanned images are stored in a central server and local server permanently and all the required measures are taken to protect the record for eternity. Raja has asked the Sub Registrar further

on the image preservation system in the Department and was assured of by the Sub Registrar that the images are safe in the central server and CDs and there is a good system of preservation of data (other than images) by backup mechanism.

The document has been delivered to Raja after taking his signature on the receipt and office register in token of receipt of the original document.

Sub Registrar told them that now the copy of registered document is a **public record**. Any person can visit the Sub Registrar Office and check the document and its index particulars; and by paying the requisite fee they can obtain Certified Copy of the registered document and EC. Raja and Rama were told that the Transfer of Property Act prescribes certain transactions to be valid then there must be a **notice to the world** regarding such transaction; and now through this registration the mandatory provision of Transfer of Property Act is fulfilled. He further added that in respect of their transaction (sale deed) the registration of document is nothing but a **notice to the world** since it is public document and any person can just walk in to the Office and obtain information and copies without any hindrance or problem. The concept of **Notice to the world** is effectively fulfilled by registration. The concept mooted by Transfer of Property Act has taken the shape through Registration Act, he explained lucidly.

Sub Registrar further explained to them the importance of registration of certain documents which have to be **compulsorily registrable** as per Transfer of Property Act and Registration Act and in case if such documents are not registered then the courts and public offices would not accept them as evidence. But unregistered documents may be taken into evidence for a limited purposes and in limited cases if full stamp duty is paid (Section 49). He asked the parties to give

this information to all their friends and relatives particularly regarding the importance of registration of documents so as to secure the title/interest in the immovable property transactions.

Scene 3 - Raja's house: Raja and his family members have kept the registered document before Ganesh jee and broken a coconut thanking Ganesh jee for the smooth completion of the most complicated process of registration. They have celebrated this by distributing sweets to friends, relatives and neighbors.