

## Policy Recommendations

**Shri Vinod K. Agrawal, IAS,**  
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**(Formerly: Commissioner for Survey, Settlements and Land Records), Govt. of**  
**Andhra Pradesh**

1. Need to move towards Guaranteed Titling System.
2. Legal changes options: Amendments in Transfer of Properties Act, Indian Evidence Act, Indian Registration Act, RoR Act, Others – ( L.A.Act, Negotiable instruments Act, Civil court Procedures ,etc )
3. For enactment of law : Two options
  - Enactment by GOI –adoption by states
  - Enactment by state – Presidential concurrence
4. Till the new law comes need to do following things:
  - Make Registration Deptt nodal point for all information
  - Information not in public domain (*GPA's, Successions, Mutations, Statutory Charges etc*).
  - Information in public domain but dispersed, *Civil Disputes, L.A. notifications, Pending actions, Govt. transactions (alienations, assignments, regularizations, sale, grants lease etc.)*
5. Survey / Sub-division record to compulsory for registration. For sorting out problems of urban survey record use only unique ID of the property and layouts to be incorporated in survey records.
6. Need to bring copy of RoR to Registrar.
7. Add ones: Indemnification of entries - Compensation- Torrens System, E conveyance, Private Intermediaries, Bio-metric identification: IRIS diagram – fingerprint

**Dr. Chandrasekhar V.,**  
**Inspector General of Registration and Stamps,**  
**Karnataka**

1. A new Sub-section (5) be inserted under Section 21 of the Act to mandate furnishing of the prescribed title deeds, as notified by the Government, including the title deeds under the proposed Land Titling Bill.

2. The following optionally registrable documents be made compulsorily registrable:
  - i. Leases of immovable property for any term.
  - ii. Decree/order/award of a court/tribunal, relating to immovable property.
  - iii. Agreement for sale without possession and Deposit of Title Deeds (DTDs) of immovable property.
  - iv. Power of attorney to sell or transfer immovable property.
  - v. Joint Development Agreements
  - vi. Certificate of sale of immovable property granted under the statute.
3. A new amended section 22-A be inserted, prohibiting registration of documents opposed to certain state and central laws.
4. A new section 6(A) be inserted to facilitate any where registration.
5. In view of the above, it is proposed to effect amendments, vide the Registration (Karnataka) Amendment Bill 2010-11, including consequential amendments to the relevant sections in the Act.
6. Consequential amendments be made to the relevant provisions in the Acts such as, the Power of Attorney Act 1882, the Transfer of property Act 1882 and the Karnataka Stamp Act 1957.
7. The proposed insertion of new sub-section (5) will suffice the requirement of assuring the titles.
8. Alternatively, to make the “Registration of Title” as substitute for registration of document, the Act needs to be amended comprehensively and the ‘Land Titling Bill’ be enacted.
9. Whereas, the introduction of “Property Title Registration (Certification) System” in India is fraught with serious problems.
10. It is suggested that a Committee may be constituted at the National level to study the issue in depth.

**Shri Charanjeet Singh**

**Director, Department of Land Resources, Ministry of Rural  
Development, Government of India, New Delhi**

1. Compulsory Registration of ‘Lease’
  - Leases below one year are not compulsorily registrable.

- Leases below one year are being prepared which are renewed after the specified period.
  - Leases below one year but above a specified amount should be compulsorily registered. This amount may be specified by the respective States/UTs.
2. Compulsory Registration of 'Power of Attorney'
- The Power of Attorney is optionally registrable.
  - Many unscrupulous elements avoid the SRO and transfer the properties through this Power of Attorney and Will mode.
  - This not only causes loss of revenue to the States but also give rise to many disputes.
  - The Power of Attorney is proposed to be made compulsorily registerable document under Section 17.
3. Compulsory Registration of 'Adoption'
- Only adoption of 'son' is compulsorily registrable.
  - To ensure gender equity 'or daughter' is proposed to be added to the son.
4. Optional Registration of 'Documents'
- Section 18 of the Registration Act, 1908 provides that any type of document can be optionally registered.
  - So, even frivolous documents have to be registered.
  - Only such documents should be optionally registered which are notified by the respective States/UTs.
5. Prohibition of Registration of certain Documents
- SRO has no power to refuse registration of documents even if they belong to the transfer of the Government property or the properties whose sale is banned by certain State Acts.
  - A new Section is proposed to be inserted to provide for prohibition of registration of such properties.
6. Registration of properties located in more than one State
- Section 28 of the Registration Act, 1908 provides that if any person has properties in more than one State, then he can register these properties in any of these States.

- Unscrupulous elements register their properties in the States with the lower Registration Fee and the Stamp Duty.
  - This causes loss to the State where the property is actually situated.
  - Property should be registered in that State only where it is actually located.
7. Recovery/Refund of Registration Fees
- The present Act has no provision for recovery of deficit registration fees or refund of the excess Registration Fees collected.
  - A new Section is proposed to be added to provide for recovery of the deficit registration fees as arrears of land revenue and refund of the excess registration fees within specified time periods.
8. 'Miscellaneous Register' (Book 4)
- The 'Miscellaneous Register' (Book 4) is not open for general public.
  - In this Book all documents registered under section 18, except Will are entered.
  - This Book 4 is proposed to be made open to inspection by the public to ensure greater transparency.
9. Facilitating Electronic Registration of Documents
- The electronic registration of the documents needs to be facilitated as it will ensure transparency.
  - SRO may access the land records database including Unique Identification Number (UID) to check the identity of the persons appearing for the registration of the property.
10. Compulsory Registration of Certificates of Sale of Property
- Section 89 of the Act provides for filing of the certificates of sale of immovable property granted by the Courts or by the Revenue Officers.
  - Due to irregular filing, the database of SRO remains obsolete and leads to fraudulent sales of such properties.
  - Certificates of sale should be compulsorily registered with the Registration Officer.

**Shri Vinay Thakur, Dibyojit Dutta,**

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1. Modification of Registration Act wherever necessary for flawless intervention of technology
2. To make the Land Records database interoperable with other domains such as Agriculture, Banking, Judiciary, etc
3. Uniform codification of land related parameters and their standardization
4. All Revenue & Registration Services to be available on public domain

**Shri S. Chockalingam, IAS, Shri BishwajitGangopadhyay, IAS and Shri Prabhat Kumar Sharma,**  
**Inspector General of Registration and Controller of Stamps Government of Maharashtra, Additional Secretary, Finance Department & IGR & CSR, West Bengal and Deputy**  
**Inspector General of Registration, Uttar Pradesh**

1. Consider Qualified Titling, either applied or automatic, in general.
2. Consider Absolute Titling for Vertical ownerships-Virgin Titles or not very old.
3. Introduce Standard Forms, implied Covenants and Standard Charge Terms.
4. Take Smaller, but significant steps towards land titling.
5. For registration, take ownership and property details data from LR database.
6. Compulsory pre-measurement for transactions resulting in sub-division.
7. Prima facie verification of title by SRs
8. Register anything affecting immovable property
9. Enabling e-payment and e-registration
10. Linking Stamp Act and Registration Act
11. LRs as conclusive not just presumptive
12. Single Nodal Ministry for anything related to Regn

In the draft Registration Act one area has not been covered. In fact though the Stamp Act and Registration Act are complementary to each other, there is no section in either of the Acts to link Registration with Stamp Act. While Stamp Act may be left as it is, we may amend few of the related sections of the Registration Act to establish an appropriate link of a document presented for registration with provisions of Stamp Act.

In terms of rule 21 of the West Bengal Registration Rules, (presumed to be similar in the other states), a document must be duly stamped for acceptance to registration. But the entire Registration Act is silent on the issue and there is no support through any appropriate section of the Registration Act to deal with cases of Registration of a document when it is not duly stamped. All the states are now following the concept of market value for charging stamp duty and there are rules to prevent registration of a document unless it is duly stamped on the market value of the property without any support from the Registration Act itself.

It is also to be noted here that same Registration Act is followed by all the States, whereas, there exists number of State specific Stamp Acts and a common amendment is not possible.

On going through the sections of the Registration Act, the following sections have been identified where minor amendments can be made to fill the existing gaps:

1. **Section 28 – Place for registering documents relating to land:** Another proviso at the end may be added as follows – Provided further that such document is duly stamped as per provisions of the Stamp Act.
2. **Section 30 – Registration by Registrars in certain cases:** A provision at the end may be added as follows – Provided further that such document is duly stamped as per provisions of the Stamp Act.
3. **Section 31 – Registration or acceptance for deposit at private residence:** It is suggested that in the last line of the proviso of the section the words “subject to the condition that such document is duly stamped as per provision of the Stamp Act” after the words “and accept for registration”.
4. **Section 32 – Persons to present documents for registration:** A proviso may be added as follows after the sub-clause (c) – Provided that such document is duly stamped as per provisions of the Stamp Act.
5. **Section 34 – Enquiry before registration by registering officer:** Following words may be added after the first para “and unless such document is duly stamped”.

**Dr. R. Palaniswamy, IAS and Ms. D. Rathna**  
**Inspector General of Registration & Additional Inspector General of Registration,**  
**Tamilnadu**

1. Curtailing Fraudulent Registration

- Signing of all Instruments such as gift, settlement, mortgage, Power of Attorney etc., by Claimants may be made mandatory. (Sec.34-A) (from 14.04.2001)
  - Compulsory affixing of photograph and finger prints of all the parties relating to all type of documents. (Sec.32-A) (from 24.09.2001)
2. Verification of Title
- Power to enquire into existence of rightful ownership of person executing the document transferring the immovable property may be vested with the registering officer. (Sec.34) – Proposed.
3. Annulment of Fraudulent Registration
- District Registrars may be empowered to enquire into cases of Registration effected by Fraudulent means. (Sec.83) - Proposed.
  - The District Registrar may be empowered to annul the registration in the event of fraudulent cases.
4. Compulsory Registration of Documents
- To augment revenue, the following deeds may be brought into the purview of compulsory registration.
    - a. All kinds of Agreement relating to immovable property.
    - b. Agreement relating to Deposit of Title deeds.
    - c. Certificate of Sale (Article 18 of ISA)
    - d. Power of Attorney shall be made compulsorily registerable and registered in Book I so that it is reflected in EC.
5. Other amendments suggested
- I. Section 22A
    - Forthcoming Tamil Nadu amendment Act 2/2009, prevents registration relating to Government lands, Temple lands, Wakf property, unapproved layouts etc.
  - II. Section 28
    - To curtail registration of documents in a Sub-Registrar Office in whose jurisdiction a small portion of property is situated, Sec.28 may

amended so that such document has to be registered in SRO within whose jurisdiction the major portion of the property is situated

III. Section 80

- New subsection may be brought in, providing ways and means to collect deficit registration fees by issuing a certificate for taking action under Revenue Recovery Act.

**Shri Balbir Singh Rajewal**  
**President, BharatiKisan Union, Ludhiana, Punjab &**  
**Shri Jaspreet Singh**  
**Advocate, Ludhiana, Punjab**

1. Any document relating to a property for sale or gift worth Rs. 100/- or above is bound to be registered under this Act. Today this limit of Rs. 100/- has no meaning. It must be increased to at least Rs. 50000/-.
2. For registration of a property, one has to pay stamp duty. It is paid through stamp papers. If somebody wants to claim a refund on unused or surplus stamp papers, he has to prove from where stamp paper was purchased and has to go through a long procedure. It is suggested that sale of stamp papers should be either online or it should be abolished. This stamp fee may be charged through banks. The procedure to take refund should be simplified and refund paid through the banks.
3. After a sale/ mortgage deed is registered, the mutation should be ensured through FardKendras. A patwari should not harass with the excuse of supply of documents and calling executants of documents again etc. and cause unnecessary delay. Today sanctioning of mutation is considered as a very big function on the part of authorities even more than the execution and registration of documents. Handsome amounts are exchanged as bribe for this purpose whereas legally mutation is not the foundation of title. Therefore, copies of registered documents should be immediately supplied by the registrar/ sub-registrar to the computerized FardKendras. Responsibility should be fixed to ensure mutation within a fixed time on registrar/ sub-registrar and FardKendras officials.



4. In case of a registered Will/ Gift, registrar/ sub-registrar along with village patwari must be duty bound to ensure mutation of the property within a specified period, after the death of done. Beneficiaries should not be compelled to produce other legal heirs at the time of sanctioning mutation. Mutation is a summary and not judicial proceeding. It is just updating of revenue record.
5. Jamabandi is not a document of title. It shows from whom revenue tax should be recovered. Usually registrar/ sub-registrars refuse to register a sale deed if copy of Jamabandi is not attached or mutation is not registered in the name of seller. Mutation should not be related to the title only. If a person has any earlier document of title in the shape of sale/ gift deed etc., then the transfer document must be registered.
6. Properties inside Lal Dora of a village are not registered. Revenue department has no record of such properties. People sell such properties on the basis of agreements which are illegal because the sale value in such cases is more than Rs. 100/-. Usually there are encroachments on such properties resulting in disputes and litigations. In the absence of revenue records, there are more than 90% encroachments on common lands within Lal Dora. Revenue department must have records of such properties and plot number to each one of them. Registration of sale deeds of properties within Lal Dora must be allowed so that people can avail benefits of mortgage and bank loans against such properties worth lacs of rupees. Farmers and labourers have such properties and they are the worst sufferers.
7.
  - (a) Staff posted at the computerized Fard Kendras is not trained to maintain revenue record. They are simple computer operators who make mistakes. Due to their faults the land owners have to face cases of Fard Badar to get corrections. Therefore, such staff must be trained as per requirements.
  - (b) In Punjab the whole revenue record has been computerized. There is only one person working at one Fard Kendra who cannot cope with the work load. For example at Samrala, there is one computer and one printer operated by one person. Patwaris are not allowed to issue copies of Jamabandi etc. There are always long queues of farmers to get copies of their land records. Arrangements should be made according to the requirements.
  - (c) Many transactions of sale/ mortgage etc. are done every day in all Patwar circles. Due to shortage of computers and computer operators, a Patwari is allowed to get the work of mutations etc. computerized only for two hours a week. It creates a problem in completion and updating of revenue records. There should be one computer and one operator for each Patwar circle or

Patwari should be trained in the working of computers. They should transfer their data online to the FardKendras rather than manually.

8. To avoid unnecessary disputes/ litigations among land owners and tenants, girdawaries must be in the land owners. It should have only the entries of crops sown. This will remove the tenancy of illegal possessions.
9. If a land owner applies for spot demarcation (NishanDehi) of his land, the Kanungo/ Patwari avoid or refuse with one or the other excuse. They should be made duty bound to do it within a fixed time.
10. In Punjab and Haryana, consolidation of land holdings (MurabbaBandi) was done in 1954-55. Since then, a lot of changes have come. Number of co-sharers has increased in each khewat and there are still two sets of measurement of an acre, kutchra and puccabigha (ShahjahaniBigha). To update the land records, there must be consolidation of land holdings after every interval of fifty years. There should be one measurement of an acre of eight Kanals only.
11. As per provisions of Registration Act Registrar/ Sub-Registrar is not bound to verify the title of the seller's property. He is duty bound to verify the due execution of documents. But practically he verifies the title. So why not empower him legally through this Act to avoid registration of documents concerning public properties.
12. After the death of a land owner, revenue should be duty bound to ensure mutation and if possible division of the properties of the deceased among successors to update revenue record within a specified period.
13. The whole computerized revenue records need inspection and checking as many joint accounts and shares have been wrongly entered. Half yearly inspection of revenue record must be ensured.
14. As per the present provisions of the Act, any document is effective from the date of its execution and not from the date of its registration. This leads to doubling of property sale. Act may be amended to ensure that the effect should be from the date of its registration, so that one must know from the registration record that if any sale/ transfer deed has already effected or not; so that earlier purchaser or seller who has executed their documents may not take the benefit of his earlier document subsequently.
15. As per provision of the Act, and unregistered will can be got registered even after the death of executants of that will. This is being misused by influential persons.

They get a forged will registered and get the benefit of registration. This provision must be scrapped.

16. Domestic agreement for partition of property have no legal authenticity at present. Most of the people have completed such partitions. The Act may be amended to authenticate such agreements. This will help minimizing litigation.
17. It should be made mandatory to register all types of sale agreements of property. This will help to check illegal activities of land mafia.

### **Recommendations in Consensus**

- Documentation of successful models and best practices on the Website.
- New ideas can be sought from public through website.
- Land Records should be made up to date through survey in all remaining states where it is still incomplete.
- There should be one single nodal ministry to look after the Registration.
- Computerization of land records should be done in all states and it is also linked with Registration department.
- Need to move towards Guaranteed Titling System.
- The electronic registration of documents needs to be facilitated as it will ensure transparency.
- Uniform codification of land related parameters and their standardization.
- Registration Act 1908 should be made gender sensitized.
- It should be the responsibility of all the registering authorities that middlemen from the department.