

GOVERNMENT OF WEST BENGAL  
OFFICE OF THE DIRECTOR OF LAND RECORDS AND SURVEYS  
AND JOINT LAND REFORMS COMMISSIONER, WEST BENGAL  
35, GOPAL NAGAR ROAD, ALIPORE, KOLKATA 700027  
Tel: 2479-5727/5991/7355

Memo. No. 14 / 553 /C/10

Dated, Alipore, the 21<sup>st</sup> March, 2018.

To  
The District Land and Land Reforms Officer,  
North 24 Parganas.

**Sub.: Instruction solicited reg. Notary Power.**

Ref: His office Memo. No. L-20013(11)/1024/2013-DL&LRO/106300, dated 29.8.2014.

With reference to his above query, a note was forwarded to the L&LR Department for instruction. L&LR Department has obtained opinion of Ld. L.R., W.B. on the above mentioned matter. The opinion of Ld. L.R., W.B. along with the letter vide memo no. 73-LP/1A-02/17 dated 05/01/2018 received from the Department is sent to his end for information and guidance.

Encl.: As stated.

  
( S. Dutta )

Director of Land Records & Surveys  
and Joint Land Reforms Commissioner,  
West Bengal

Memo. No. 14 / 553 (21)/C/10

Dated, Alipore, the 21<sup>st</sup> March, 2018.

Copy forwarded to DL&LRO, \_\_\_\_\_ All for information and guidance.

Encl.: As stated.

  
( S. Dutta )

Director of Land Records & Surveys  
and Joint Land Reforms Commissioner,  
West Bengal

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Government of West Bengal

Land & Land Reforms and R.R. & R Department  
Land Policy Branch  
Nabanna

325, Sarat Chatterjee Road, P.O.-Shibpur, Howrah-711102

No.73-LP/1A-02/17

Date: 05/01/2018

From: The Deputy Secretary to the Government of West Bengal  
To : The Director of Land Records & Surveys, West Bengal  
35, Gopalnagar Road, Alipore, Kolkata-700027.

Sub: Correction of RoR on the basis of registered deed executed by Notary Power holder- Policy thereof.

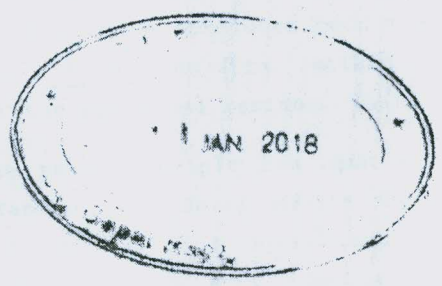
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Sir,

I am directed to refer to your memo No.14/33/C/10 Dated 03/01/2017 on the above subject and to state that Ld. LR, WB has observed that for the purpose of presentation and registration of a deed, a notarized power of attorney may only be accepted when the principal at the time of executing power of attorney does not reside in India. In other cases such power of attorney executed by a notary shall not be taken into consideration for the purpose of presentation and registration of deed.

2. In other cases for the purpose of presentation of document for registration if the principal at the time of executing power of attorney resides in any part of India in which Registration Act, 1908 for the time being in force, a power of attorney executed before and authenticated by the Registrar or the Sub-Registrar within whose district or sub-district principal resides, shall be recognized.

3. You are also requested to kindly issue necessary instruction to all concerned to that effect with due intimation to this end. A photocopy of the note-sheet depicting the observations of Ld. LR, WB is also enclosed herewith.



Yours faithfully,  
*[Signature]*  
Deputy Secretary

Encl: As stated

402  
17/01/18  
14/01/18

Forgoing notes and queries of LRC and Principal secretary at nsp-6 ante.

It appears that the question as to whether sale of Immovable Property through General Power of Attorney (GPA), is safe or legally valid, is remained unanswered. The file may be sent to Ld.LR, WB for his considered views on this point once again.

Submitted

HAC/PTK

24/11/2017

24/11/2017

24/11/17

24/11/17

may mean advise

24/11

BSCAS  
24/11/2017

LR

LdLR

The short question involved in the instant file is as to whether notary power holder is sufficient or power of attorney has to be also registered and executed as per Registration Act.

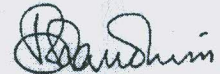
The instant file was initiated when DLR&S, W.B. sought for a clarification for correction of records on the basis of registered deed which are executed by notary power holder on behalf of the transferor.

Section 33(1)(a) states that "for the purpose of presentation of document for registration, if the principal at the time of executing power of attorney resides in any part of India in which this Act for the time being in force. A power of attorney executed before and authenticated by the Registrar of Sub-Registrar within whose district or sub-district the principal resides, shall be recognised."

The said principle has been enunciated in the case of Rajni Tandon -Vs- Dulal Ranjan Ghosh Dastidar reported in (2009) 14 SCC 782. In Suraj Lamp Industries (P) Ltd. -Vs- State of Haryana & Anr. [Special Leave Petition (C)] No. 13917 of 2009] the Hon'ble Supreme Court clearly observed that an agreement for sale, general power of attorney or, will does not transfer any title intervivos between transferor and transferee and those documents cannot be treated as documents of transfer.

So far as power of attorney executed before and authenticated by a notary public is concerned, such notarised power of attorney may be accepted for presentation of a document for registration only when principal at the time of executing power of attorney does not reside in India.

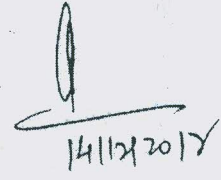
Thus, I am of the considered view that for the purpose of presentation and registration of a deed, a notarised power of attorney may only be accepted when the principal at the time of executing power of attorney does not reside in India. In other cases such power of attorney executed by a notary shall not be taken into consideration for the purpose of presentation and registration of deed.



(B. Chaudhuri)  
L.R.-in-Charge  
5.12.17

LFC

~~SSCPK m)~~  
~~15/12/17~~  
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14/12/2017