

# THE LAND TITLING BILL, 2011

## [ACT [•] of 2011]

An Act to provide for the establishment, administration and management of a system of conclusive property titles through registration of immovable properties and further to amend the relevant Acts as stated in the Schedule and matters connected therewith or incidental thereto.

Whereas the Union Cabinet has given its approval for introducing the conclusive property titling system, it is hereby expedient to formulate a Model Law for favorable consideration by all the States and the Union territories with legislature in view of the need for uniformity of the law applicable to conclusive property titling;

And whereas it is considered necessary to enact such a law for the Union territories without legislature;

Be it enacted by Parliament in the Sixty-second year of the Republic of India as follows:

### CHAPTER – I

#### *PRELIMINARY*

##### **1. Short Title, Extent, Commencement and Application:**

- (1) This Act may be called the .....Land Titling Act, 2011.
- (2) It shall extend to the whole of the State/Union Territory of ----
- (3) It shall come into force on such date as the Government of the State/Union Territory may, by notification appoint.

Provided that Government of the State or Union Territory may notify different dates for different areas.

## **2. Definitions**

In this Act, unless the context otherwise requires:

(Definitions to be placed here in consultation with the Ministry of Law)

In the definition "Register" can be defined as digital records.....

Saving Clause may be added here so that the terms defined in other Acts need not be defined here. It may be "Words and expressions which are used and not defined in this Act, but defined in the Transfer of Property Act, Evidence Act, Income Tax Act, Indian Succession Act Easements Act, Information Technology Act, Land Acquisition Act etc. shall have the same meaning respectively assigned to them in those Act and shall be construed in accordance with the provisions contained in the said Acts.

## **CHAPTER – II**

### **THE LAND TITLING AUTHORITY**

#### **3. Establishment of System – Proclamation:**

The Government of the State/Union Territory may by a proclamation order the establishment of a system of title registration of immovable properties in such areas as may be notified.

#### **4. Establishment of the Authority**

(1) Upon the promulgation of this Act, the Government shall, by notification, constitute the Land Titling Authority for the purposes of this Act.

(2) The Land Titling Authority shall exercise such powers as may be conferred on it and discharge such functions as may be prescribed by or under this Act or any other law for the time being in force.

#### **5. Jurisdiction and Offices:**

(1) The head office of the Authority shall be at such place as the Government of the State/Union Territory may notify.

(2) The Authority may, by notification, and with prior approval of the Government, establish offices at such other places as may be necessary within or outside the State or /union territory of ----.

## **6. Composition of the Authority**

The Authority shall consist of a Chairperson, four Members, and a Chief Executive Officer (CEO) to be appointed by the Appropriate Government, on recommendation of a selection committee to be set up by the Government and in a manner as may be prescribed.

(2) The Chairperson shall be a person who is or has been in the rank of a Chief Secretary/Additional Chief Secretary in the Government of the State/Union Territory or equivalent post in the Central Government and has experience in the spheres of land records, property registration, and/or cadastral survey.

(3) A Member shall be a person who is or has been in the rank of a Secretary to the Government of the State/Union Territory or equivalent post in the Central Government and has experience in the spheres of land records, property registration, survey, information technology, property valuation and/or law.

(4) The CEO will be a full time functionary appointed by the Government from the serving officers of the State/UT not below the rank of a Secretary to the Government of the State/UT.

(5) Powers and responsibilities of the Chairperson, CEO and Members shall be as prescribed.

## **7. Finances of the Authority**

(1) The expenditure of the Authority may be borne out of the Consolidated Fund of India (or the State as the case may be), or through a grant, or through the revenues generated by the Authority itself:

(2) The Authority may prescribe and levy reasonable fees with the prior approval of the Government concerned and collect the same for the services rendered, documents issued, licenses granted or information provided by it.

## **8. Terms and conditions of service of the Chairperson and Members of the Authority**

(1) The Chairperson and Members shall hold office for such term as the Government may provide, but not exceeding five years:

Provided that no Chairperson or Member shall hold office after he has attained the age of sixty-five years.

(2) The Government may, by order, remove the Chairperson or a Member from his office if such Chairperson or Member

- (i) is adjudged an insolvent; or
- (ii) has been convicted of an offence which, in the opinion of the appropriate Government involves moral turpitude; or
- (iii) engages during his term of office in any paid employment outside the duties of his office; or
- (iv) is, in the opinion of the appropriate Government unfit to continue in office by reason of infirmity of mind or body; or
- (v) has acquired such financial or other interest as is likely to affect prejudicially his functioning; or
- (vi) is in any way, concerned or interested in any contract or agreement made by or on behalf of the Authority or participates in any way in the profit thereof or in any benefit or emolument arising there-from otherwise than as a member and in common with the other members of an incorporated company.

(3) No person shall be removed under this section until that person has been given an opportunity of being heard in the matter.

(4) The Chairperson or a Member of the Authority may, by notice in writing under his/her hand addressed to the Government, resign his/her office, in the manner as may be prescribed.

(5) Any vacancy in the office of the Chairperson or a Member of the Authority shall be filled by the Government, by notification in the Official Gazette, as soon as may be, after the occurrence of the vacancy other than a casual or temporary vacancy.

(6) The salary, allowances and other terms and conditions of service of the Chairperson and Members of the Authority shall be such as may be prescribed by the Government.

## **CHAPTER-III**

### **TITLE REGISTRATION OFFICER**

#### **9. Establishment of Title Registration Office:**

(1) The Government may by notification establish a Title Registration Office under the Act at such places as it may consider necessary.

(2) The Government may by notification appoint or designate a Title Registration Officer for the purposes of this Act.

#### **10. Preparation of Records:**

Upon proclamation issued under Section 4, the Authority shall proceed to prepare a record of all immovable properties, situated in notified area, which shall contain:

(A) (i) Survey: A record of boundary or boundaries or any part of boundary of every immovable property duly identified with a distinct I.D. This distinct I.D. may be tagged with the unique identity being developed by the Unique Identification Authority of India.

(ii) The Authority shall, for the purposes of this section discharge all functions and exercise all the powers of Commissioner and or Director in charge of Survey, Settlement operation under various provisions of the relevant acts and rules of the State/Union Territory.

Provided that, any record created by an officer of the Government of the State/Union Territory duly authorized in this regard under the above mentioned acts and rules may be adopted by the Authority as its own record.

(iii) The Director Land Records/ Settlement Commissioner or equivalent will function under the supervision of the Authority with respect to the area notified.

- (B) Titling: (i) A Record of Title over each of the immovable properties in the notified area shall be prepared in the manner further provided in this Act.
- (ii) The Title Registration Officer will function under the supervision of the Authority.

#### **11. Notification by the Title Registration Officer:**

- (1) The preparation of Register of Titles under section (10) (B), will be taken up based on the available land records data. The Title Registration Officer shall notify this data in the prescribed manner and invite objections from all persons who have any interest in such immovable property to file claim and to attend either in person or by an agent duly authorized in this regard at a specified place and time and from time to time thereafter when called upon, for the purpose of disposal of claims.
- (2) Such notification to be valid notice to all the persons interested: A notification published under subsection (1) shall be a valid notice to every person having any interest in the title of the property to be included in the Register of Titles.
- (3) Upon issue of notification under subsection (1), all persons who have any objection to the notification, shall furnish details of their claim in the prescribed manner and within the prescribed time to the TRO. This may include any leasehold title or right or interests of persons in actual occupation, easements, customary rights, public rights, mines and minerals, franchise, a non statutory right in respect of an embankment of sea or river wall, any subsisting power of attorney authorizing the agent to sell or develop or construct the property, any subsisting sale agreement with or without possession of the property, any subsisting agreement cum GPA or any pending suit or appeal under Specific Performance Act, any pending proceedings regarding dissolution or winding up or bankruptcy before any authority, pending proceedings for recovery of statutory duties, levies, taxes or any other claim, charge or encumbrance on the property including pending actions relating to insolvency petition appointing a

receiver, or writ or an order affecting immovable properties made by any court for the purposes of enforcing a Judgment or recognizance of any deed of arrangement or arbitration or settlement if any etc.

**12. Powers to summon:**

(1) The Title Registration Officer, District Land Titling Tribunal and State Land Titling Appellate Tribunal appointed under this Act for the purpose of holding an enquiry in the process of preparation and updation of Register of Titles under this Act, will have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) when hearing an objection or dispute.

(2) The Title Registration Officer may inspect or summon the production of any of the documents or records or registers in respect of Immovable property within the notified area, during the process of holding an enquiry before ordering an entry in the Register of Titles.

**13. Powers of Title Registration Officer in undisputed cases:**

The Title Registration Officer shall determine and record the entry of Titleholder of a land parcel or property in the Register of Titles, for which no dispute is brought to his notice in writing.

**14. Power of Title Registration Officer in disputed cases:**

Where title to a property or a covenant in the nature of easement right or a condition which will have a bearing on the absoluteness of the title is disputed, the Title Registration Officer shall order for an entry in the Register of Titles and refer the case to the District Land Titling Tribunal constituted for this purpose, and make an entry to that effect in Register of Titles also for any reference.

**15. Power of Title Registration Officer in cases of Charges & Covenants:**

While ordering an entry in the Register of Titles, if the Title Registration Officer comes across a charge and, or a covenant in the nature of easement right or a condition which will have a bearing on the absoluteness of the title, he shall order recording of details of such covenant and, or a charge in the Register of Titles.

## CHAPTER – IV

### DISTRICT LAND TITLING TRIBUNAL AND STATE LAND TITLING APPELLATE TRIBUNAL

#### **16. District Land Titling Tribunal:**

- (1) Upon the issue of notification under subsection (3) of Section 1, of this Act, the Government shall, by notification, constitute the District Land Titling Tribunal for the purposes of this Act.
- (2) The Appropriate Government may appoint one or more serving officers not below the rank of Joint Collector/ Sub Divisional Magistrate of a District to function as District Land Titling Tribunal to dispose objections filed under Section 25(1) of the Act.
- (3) The officer so appointed shall, exercise the powers and perform the duties of the District Land Titling Tribunal within such local limits and for such period of time as the Government may direct.

#### **17. State Land Titling Appellate Tribunal:**

- (1) The Government may establish one or more State Land Titling Appellate Tribunals to hear the appeals filed under Section 26(1) of the Act for notified areas. The State Land Titling Appellate Tribunal will be presided over by serving Judicial Officer in the rank of the District Judge for this purpose.
- (2) The State Level Land Titling Appellate Tribunal so appointed shall exercise the powers and perform the duties of the State Land Titling Appellate Tribunal within such local limits, for such period of time as Government may notify.

#### **18. Proceedings of District Land Titling Tribunal and State Land Titling Appellate Tribunal:**

- (1) The District Land Titling Tribunal & the State Land Titling Appellate Tribunal will follow procedure laid down under code of civil procedure. Subject to the provisions of this Act and Rules, these Tribunals may regulate its procedure, including duration of oral hearings, when granted, and times of its inquiry, as may be prescribed.
- (2) All proceedings before the District Land Titling Tribunal and State Land Titling Appellate Tribunal shall be deemed to be judicial proceedings, within the meaning of Sections 193 and 228, and for the purpose of Section 196 of the Indian Penal Code, and the State Land Titling Appellate Tribunal shall be deemed to be a civil court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

**19. Bar of jurisdiction of Civil Courts:**

No civil court shall have jurisdiction to entertain any proceedings in respect of any matter, in which any Title Registration Officer, District Land Titling Tribunal and State Land Titling Appellate Tribunal established under this Act, are empowered by or under this Act to determine.

**CHAPTER – V**

**COMPLETION OF RECORDS – PUBLICATION OF NOTIFICATION**

**20. Completion of Record to be notified:**

When the preparation of the Record for whole or part of the notified area has been completed in accordance with section 10 of this Act, the Authority shall notify the fact in the prescribed manner.

**21. Consequences of Publication of notification of completion:**

Upon notification issued under Section 20, transfer of any immovable property situated in the notified area shall take place in accordance with the provisions contained in this Act.

**22. Objection to entries in Register of Titles:**

(1) Any person aggrieved by the notified entry in the Register of Titles may file an objection or claim before the District Land Titling Tribunal within three years from the date of such notification. The aggrieved person shall also file an application before the Title Registration Officer to make an entry in the Register of Titles.

(2) The Title Registration Officer shall make an entry in the Register of Titles of such an application, when it has been admitted in the District Land Titling Tribunal.

**23. Rectification of entries in Register of Titles:**

(1) A person may make an application to the Title Registration Officer in the manner prescribed seeking direction for minor rectification of the Register of Titles limited to correcting administrative or procedural errors or omissions such as spelling mistakes.

(2) The Government may frame rules to make provisions for the manner in which the Title Registration Officer shall rectify the Register of Titles in the above situations.

## **24. Disposal of objections by District Land Titling Tribunal:**

- (1) Upon a reference made under Section 14 by the Title Registration Officer or on an objection or claim filed in accordance with Section 22, or suo motu, the District Land Titling Tribunal constituted for the purpose of and in accordance with the provisions of this Act shall proceed to hear the parties concerned, conduct an enquiry and pass an order to make entry in the Register of Titles in respect of the property about which the reference or objection was filed.

Provided that when the District Land Titling Tribunal takes up the case suo motu it shall record the reasons and grounds thereof, and issue a notice to all the parties concerned before taking up the hearing.

- (2) The Title Registration Officer upon receipt of the order of the District Land Titling Tribunal passed under sub section 1 and after expiry of the period of appeal shall record or modify an entry of Titleholder in the Register of Titles in accordance with such order.

## **25. Appeal before State Land Titling Appellate Tribunal:**

- (1) A party aggrieved with an order of District Land Titling Tribunal may file an appeal before the State Land Titling Appellate Tribunal constituted for this purpose within thirty days of passing of such an order.
- (2) On receipt of an appeal under sub-section (1), the State Land Titling Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit either confirming or modifying or setting aside the order appealed against.
- (3) The Title Registration Officer, upon receipt of the order of the State Land Titling Appellate Tribunal passed under sub section (2) and after expiry of the period of appeal thereon, shall record or modify an entry of Titleholder in the Register of Titles in accordance with such order.

## **26. Revision before the High Court:**

- (1) A Special Bench of the High Court may be designated to deal with revisions on the orders of the State Land Titling Appellate Tribunal.
- (2) Any party aggrieved with the order of the State Land Titling Appellate Tribunal passed under Section 25, may file a revision petition before the High Court within thirty days of passing of such an order.

(3) Upon receiving a revision petition the High Court may after hearing the concerned parties, issue an order revising the orders of State Land Titling Appellate Tribunal.

(4) The Title Registration officer, upon receipt of the order of the High Court shall record or modify an entry of Title holder in the Register of Titles in accordance with such order.

## CHAPTER – VI

### COPULSORY INTIMATIONS TO LAND TITLING AUTHORITY

#### **27. Compulsory intimation of Civil suits or Appeals:**

(1) Notwithstanding anything contained in any other law for the time being in force, upon issue of Notification under Section 20 it will be incumbent upon the disputing party relating to any suit or appeal or revision in relation to any rights or interest in an immovable property recorded in the Register of Titles, pending on the date of such notification or filed after notification in any Civil Court, High Court, in the Supreme Court of India or in any quasi judicial authority under any law to intimate in the prescribed manner about such pendency to the Title Registration Officer concerned, get it recorded and obtain a certificate of recording and file such certificate before the Court or Tribunal within thirty working days from the date of such notification.

Provided the Title Registration Officer on satisfying himself that there are sufficient and valid grounds for the delay, may condone the delay up-to sixty working days for filing the above intimations.

(2) Upon receipt of intimation of suit or appeal in accordance with sub-section (1), the Title Registration Officer concerned shall enter it in the Register of Titles and issue a certificate of recording to the concerned.

Provided the Title Registration Officer shall issue the certificate of recording within ten working days of the receipt of the application.

(3) In case of failure to file certificate of recording of dispute within the time prescribed in Sub-Section (1) as the case may be, the suit or appeal pending or filed before a Court or Tribunal shall lapse.

(4) It shall be incumbent upon the decree holder or Plaintiff or appellant or any other interested person to intimate, get recorded and obtain a "certificate of recording of resolution of dispute" in respect of a dispute recorded in Register of Titles within thirty working days from the date of issue of decree or judgment or order resolving such dispute.

Provided the Title Registration Officer on satisfying himself that there are sufficient and valid grounds for the delay may condone the delay up-to sixty working days for filing all the above intimations.

## **28. Compulsory intimation of proceedings under Land Acquisition Act:**

(1) Upon issue of the notification under Section 20, it will be incumbent upon the Collector under the Land Acquisition Act to intimate within thirty working days of such notification to the Title Registration Officer concerned in the prescribed manner, the fact of any notification issued under Section 4(1) or declaration under section (6) of the Land Acquisition Act pending further action under that Act, in respect of any property situated in the notified area and to obtain a certificate of its recording.

Provided that after the date of issue of notification under Section(20), it shall be incumbent upon the Collector under Land Acquisition Act to intimate to the Title Registration Officer concerned, the fact of issue of notification under Section 4(1), declaration under section (6) or passing of an award under section (15) of the Land Acquisition Act in respect of any property located in the notified area and obtain a certificate of its recording within thirty working days of issuance of such notification or declaration or passing of an award.

Provided further that the Title Registration Officer on satisfying himself that there are sufficient and valid grounds for the delay may condone the delay upto sixty working days for filing all the above intimations.

(2) Notwithstanding anything contained in any law for the time being in force, all the notifications under Section 4(1) or declarations under Section 6 or awards under Section 15 of L.A. Act as the case may be shall be operative only from the date of issue of certificate of recording by the Title Registration Officer concerned.

## **29. Compulsory intimation of Government transactions:**

(1) After the issue of notification under Section 20, all the transactions by the Government in respect of immovable properties owned by it e.g., alienations, assignment, regularizations of occupation, sale, grant, lease and all transactions made

by the Government in respect of any other property shall be intimated to the Title Registration Officer concerned by the Collector of the District concerned or by any other officer of the Government competent to make such transaction and a certificate of recording obtained.

(2) Notwithstanding anything contained in any other law for the time being in force, all such transactions shall be effective only from the date of issue of the certificate of recording by the Title Registration Officer concerned.

### **30. Compulsory intimation of equitable mortgages:**

(1) Upon issue of notification under Section 20, all the financial institutions or other bodies or individuals holding or creating equitable mortgage in respect of any property shall intimate the fact to the Title Registration Officer concerned and obtain a certificate of recording within thirty working days of such notification failing which the equitable mortgage will be rendered unenforceable.

Provided that, notwithstanding anything contained in any other law for the time being in force, such equitable mortgage shall be effective only from the date of issue of the certificate of recording.

### **31. Compulsory intimation of statutory charges:**

(1) Upon issue of notification under Section 20, it will be incumbent upon the party in whose favor such charge or lien is pending or created, to intimate in the prescribed manner to the Title Registration Officer concerned, all the statutory charges and liens including charges registered under Companies Act, on the date of notification, get them recorded and obtain a certificate of recording within thirty working days of notification.

(2) Notwithstanding anything contained in any other law, for the time being in force, the said charge, statutory charge or lien will be effective only from the date of issue of certificate of recording.

### **32. Compulsory intimation of Pending actions:**

(1) Upon issue of Notification under Section 20, it will be incumbent upon the parties concerned to intimate in the prescribed manner to the Title Registration Officer concerned, all the pending actions as on the date of notification or arising after notification, like appointment of receiver in any insolvency petition, or writ or an order affecting an immovable property made by any court or competent

Legal Authority for the purpose of enforcing a judgment or recognizance of any deed of arrangement or arbitration or settlement, get it recorded and obtain a certificate of its recording within thirty working days of notification.

- (2) Notwithstanding anything contained in any other law for the time being in force, such pending actions in sub-section (1) shall be enforceable only from the date of issue of certificate of recording.

### **33. Compulsory registration and submission of information to the Authority:**

(1) Notwithstanding anything contained herein, subject to notification of completion of recordal of the survey entry under Section 20 all documents creating, assigning, declaring, limiting varying or extinguishing any interest relating to immovable property in the notified area, which are required to be registered under section 17 of the Registration Act 1908 (16 of 1908) and the following documents shall be compulsorily registrable under this Act within the time and in the manner prescribed, namely:-

- a) memorandum recording creation of mortgage by deposit of title deeds;
- b) memorandum recording family settlement involving immovable properties;
- c) notices under section 52 of the Transfer of Property Act, 1882 (4 of 1882);
- d) letter of administration, probate or succession certificate issued under the Indian Succession Act, 1925, (39 of 1925) in respect of the immovable property;
- e) all acts or transactions, creating, assigning, declaring, limiting, varying or extinguishing any interest relating to immovable property.
- f) documents as may be notified by the Authority from time to time.

(2) The registration fees in respect of the documents required to be registered pursuant to sub-section (1), shall be as prescribed. The rules shall also prescribe mandatory submission of the certificate of recordal of ownership of and/or interests in the immovable property issued under Section 35, for every application for registration and recordal of transfer of ownership of, and/or interests in, the immovable property under this section.

### **34. Powers of Attorney to be compulsorily notified:**

- (1) Upon the issue of notification under Section 20, it will be incumbent upon the parties concerned, to intimate in the prescribed manner to the Title Registration

Officer concerned all the subsisting powers of attorney authorizing the agents to sell or develop or construct the immovable property and all the subsisting agreements cum General powers of attorney, get them recorded and obtain a certificate of its recording, within thirty working days of the notification.

(2) After issue of notification under Section 20, it will be incumbent upon the person executing any power of attorney including an Agreement cum GPA authorizing an agent to sell or develop or construct upon an immovable property located in a notified area, to intimate in the prescribed manner to the Title Registration Officer concerned, the fact of execution of such power of Attorney or Agreement cum GPA, get it recorded and obtain a certificate of its recording within thirty days of such execution.

(3) Notwithstanding anything contained in any other law for the time being in force, such powers of attorney or Agreements cum General Powers of attorney shall be effective only from the date of issue of the certificate of recording by the Title Registration Officer concerned under sub-section (2).

### **35. Issue of certificate of recording:**

Upon receipt of information under Section 27 or 28 or 29 or 30 or 31 or 33 or 34 the Title Registration Officer concerned shall enter the details in prescribed manner in the Register of Titles and issue a certificate of its recording.

## **CHAPTER-VII**

### **REGISTER OF TITLES**

### **36. Register of Titles:**

(1) After completion of the records is notified by the Authority for a notified area, the Register of Titles shall be prepared and maintained by the Authority. The Authority may designate officer or officers for the creation, operation and maintenance of the Register of Titles.

(2) With respect to each immovable property, the Register of Titles shall contain a property sheet *inter alia* consisting of the following particulars, namely:-

- a. General description, map and locational details of the immovable property;
- b. A property sheet, which shall consist of under mentioned five parts:-

- (i) Part I:- Descriptive data regarding the immovable property (Unique Identification Number, plot number, total area, built up and vacant area, address, site area, undivided share, if any, in the land, etc.);
- (ii) Part II – Detail of survey entry, provisional title record, conclusive title record and status thereof and details and status of the mortgage, charges, and other rights and interests over the immovable property;
- (iii) Part III- Details of transfer of the immovable property and past transactions;
- (iv) Part IV- Disputes pertaining to the immovable property pending with any appropriate forum;

c. such other particulars as may be prescribed.

(3) All persons are deemed to have notice of every entry in the Register of Titles.

### **37. Legal effect of registration and entries to attain conclusiveness:**

- (1) The registration of any person with title of ownership to a Land Parcel within the Title Register under the provisions of this Act, shall vest in the owner the ownership of such land together with rights and privileges belonging or appurtenant thereto as shown in the Title Register, subject to any subsisting interests as registered in the encumbrances component of the Title Register.
- (2) The estate or interest of a person whose name appears in the Title Register as the registered holder of that interest may be assailed only as provided for in this Act, and shall, except in the case of fraud, be held by such person together with all rights and privileges belonging or appurtenant thereto free from all interests and claims other than those appearing in the Title Register.
- (3) Entries in the Title Register maintained under the provisions of this Act, shall be conclusive evidence of the existence of the ownership or interest specified in such entries after expiry of three years from the date of such notification as and if modified by an order of the District Land Titling Tribunal or State Land Titling Appellate Tribunal or any other competent authority and shall not be questioned in a Court of law except as provided for in this Act.

### **38. Maintenance & updation of the Register:**

(1) The Register of Titles shall be maintained and updated in such manner and in such format as may be prescribed.

(2) The Title Registration Officer concerned or any other officer authorized in this behalf by the Authority, may add, or delete, or change, or alter, or amend, or modify and update any entry in respect of any immovable property in the Register of Titles in such manner as may be prescribed.

### **39. Rectification of entries in Register of Titles:**

(1) A person may make an application to the Title Registration Officer in the manner prescribed seeking direction for minor rectification of the Register of Titles limited to correcting administrative or procedural errors or omissions such as spelling mistakes.

(2) The Government may frame rules to make provisions for the manner in which the Title Registration Officer shall rectify the Register of Titles in the above situations.

### **40. Registers to be Electronic:**

(1) All registers to be maintained by the Authority shall be maintained in electronic form, in the manner and subject to safeguards, as may be prescribed by the Authority in this regard.

(2) The State Government may, by notification in this regard, appoint a date from which, all rights or interests relating to immovable property in any or all of the notified areas, shall be executed only in the electronic format in the manner prescribed.

### **41. Evidence of Title:**

Any title recorded in the Register of Titles in accordance with the provisions of this Act, shall be considered as evidence of the marketable title of the titleholder.

### **42. Indemnification of Entries:**

The State Government may, by notification in this regard, introduce a system of indemnifying the entries in the records of the Authority from such date and for such area as notified. Provided that the system of indemnifying shall be in the manner as may be prescribed.

## CHAPTER-VIII

### PROCESS OF REGISTRATION OF TITLES AFTER NOTIFICATION OF ENTRIES IN TITLE REGISTER

#### 43. Powers under the Indian Stamp Act, 1899 and Registration Act, 1908:

- (1) For the purposes of this Act, the Authority shall exercise all the powers of the Chief Controlling Revenue Authority under the Indian Stamp Act, 1899.
- (2) Government may for the purposes of discharging of functions and exercising powers under Indian Stamp Act, 1899 notify one or more of its officers as Collector for the different provisions of that Act.
- (3) For the purposes of this Act, the Authority shall exercise all the powers of the Inspector General, under the Registration Act, 1908.
- (4) For the purposes of Registration Act, 1908, the Government may notify one or more of its officers as Sub-Registrar or District Registrar under the different provisions of that Act.
- (5) The provisions of Registration Act 1908 and Indian Stamp Act, 1899 not inconsistent with the provisions of this Act shall apply mutatis mutandis to the relevant matters dealt with under this Act.

#### 44. Registration process:

(1) Upon receipt of a transfer application or report on transaction, the Title Registration Officer shall there upon:

- a. enquire and satisfy himself whether or not such transaction is executed by the persons by whom it purports to have been executed.
- b. verify and satisfy himself whether any stamp duty, transfer duty and any other applicable duty or fee is paid in respect of the transaction and collect the differential if any.
- c. satisfy himself
  - i. as regards the identity of the presentants through the personal identification records or in any other manner as may be prescribed by the Authority.

- ii. that the transaction is not in violation of any enactment in force.
- iii. the transfer application or report on transaction is in prescribed form and contains all the required information.
- iv. that the subject property under the transaction is duly described in its entirety by the distinct ID assigned by the Authority under Section 10(A) of this Act.

(2) The Title Registration Officer shall not accept the transfer application or report on transaction if he is not satisfied in respect of any of the above.

(3) Upon satisfying himself in accordance with sub-section (1), the Title Registration Officer shall proceed to effect that transfer of title or record the transaction on title as the case may be, in the Register of Titles in the manner prescribed.

#### **45. Reasons for refusal to be recorded:**

(1) Every Title Registration Officer refusing to accept a transfer application or report on transaction shall make an order to that effect duly recording the reasons thereof and give a copy thereof to the Presentants, within seven days from the date of presentation.

(2) An appeal shall lie against an order of a Title Registration Officer under sub-section (1) to the Appellate Officer as prescribed within thirty days from the date of the order.

(3) Every Appellate Officer refusing to register a transfer application shall make an order of refusal and record the reasons thereof and give a copy thereof to the Appellant.

(4) An appeal shall lie against an order of the Appellate Officer under sub-section (3) to the District Court within thirty days from the date of the order.

(5) If the order of the Appellate Officer or District Court directs the transaction to be registered and the transfer application is duly filed for registration within thirty days of the making of such order, the Title Registration Officer shall obey the same and such registration shall take effect as if the transfer application form had been registered when it was first duly submitted for registration.

#### **46. Power of Courts to direct the Title Registration Officer:**

If it appears to any competent Court that it is necessary or desirable to do so for the purpose of protecting a right or claim or charge in relation to an immovable property, it may make an order directing the Title Registration Officer to refuse or

withhold registration of such transfer or charge for reasons to be recorded in the light of the judicial order subject to the final outcome of the civil disputes in the matter.

**47. Enquiry by the Title Registration Officer:**

(1) The Title Registration Officer shall have the power to summon any person, who the Title Registration Officer believes has information relevant to the transaction and direct him to give statements or deliver any relevant document as may be necessary for registration under this Act.

(2) The Title Registration Officer may for the purpose of any enquiry summon and enforce the attendance of witness and compel them to give evidence, as if he were a civil court and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the code of Civil procedure, 1908.

(3) The Title Registration Officer may, at his discretion accept the Transfer Application or Report on transaction at the private residence or hospital or jail from a person who is unable to attend the office, after recording the reasons thereof in writing in the manner prescribed.

**48. Effect of entries:**

An entry made in the Register of Titles pursuant of a Transfer Application or Report on transaction, has effect for transfer of Title or recording of transaction from the time of making or filing of the application before the Title Registration Officer.

**49. Liability for void transfers:**

If any title or right or interest in immovable property is not registered due to non compliance of certain provisions of this Act, then the person in whose name such title or right or interest in immovable property was proposed to be registered will be compensated by the owner of the property with regard to costs incurred by such person for the purposes of registration.

**50. Effect of non-compliance of requirement:**

(1) No transaction or act relating to immovable property required to be registered or recorded under this Act or reported to the Authority under this Act shall be effective and received as evidence of a transaction relating to such property,

unless it has been registered or recorded upon receipt of information by the Authority under the provisions of this Act.

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, or as evidence of any collateral transaction not required to be effected by registered instrument.

- (2) Notwithstanding anything contained in any other enactment in force, if the requirement of registration under this Act is not complied with, the transfer, grant or creation of title or right or interest becomes void.
- (3) On the application of sub-section 2 in case of transfers for valuable or other consideration, by the way of gift or in pursuance of an order of any court, the title to the immovable property reverts to the transferor who holds it on a bare trust for the transferee.
- (4) On the application of sub-section 2 in cases of leases or grants, charges or mortgages, the lease or grant or creation of charge or mortgage has effect as a contract made for valuable consideration to lease or grant or create such legal interest concerned.

## **CHAPTER – IX**

### **ELECTRONIC TRANSACTION**

#### **51. Compulsory use of biometric identification:**

The Authority may by notification from time to time in this regard, appoint a date from which it shall provide for the compulsory use of one or more than one particular personal identification system such as biometric authentication, (IRIS diagram or finger print) or any other such method for establishing the identity of any person, for the purposes of any transaction or transfer of any Immovable property recorded in the Register of Titles.

#### **52. Security Procedures:**

- (1) The computer system of the Land Authority shall be a protected system for the purpose of the Information Technology Act, 2000.

(2) The Authority shall for the purposes of this Act prescribe appropriate systems of security.

Provided that notwithstanding anything contained in this Section the Authority shall be at a minimum governed by the Information Technology Security Guidelines contained in Schedule II to the Information Technology (Certifying Authorities) Rules, 2000 of the Information Technology Act, 2000.

**53. Evidentiary value of Electronic records:**

Notwithstanding anything contained in any other law for the time being in force, provisions of the Indian Evidence Act, 1872 shall be applicable to all electronic records under this Act.

**54. Powers to appoint licensees:**

The Authority, with the prior approval of the Government may by notification in this regard, appoint an individual or a body as its licensee, representative or agent to carry out any part of its duties and responsibilities on such payment, terms & conditions as it may consider necessary.

## **CHAPTER – X**

### **MISCELLANEOUS**

**55. Grant of Succession:**

(1) In case of death of an individual whose name is entered as Titleholder in the Register of Titles, the legal heirs of such deceased shall file an application in the prescribed manner to the Title Registration Officer concerned for grant of succession and for replacing the name of the deceased with their names in the aforesaid Register.

(2) The Title Registration Officer concerned upon receipt of an application under subsection (1) shall issue a public notice in the prescribed manner calling for claims and objections and after conducting such enquiry as may be prescribed, pass an order granting or refusing to grant succession in favor of any individual or individuals.

(3) Appeal against an order of the Title Registration Officer concerned under sub-section (2) shall lie to the District Court concerned within thirty days of passing of the order.

(4) If the Title Registration Officer concerned is of the opinion that a substantive dispute exists in respect of the succession to the deceased's title, the Title Registration Officer shall not grant the succession but refer the matter to the relevant Civil Court in the prescribed manner for adjudication along with the record of enquiry, claims and objection petitions.

Provided that where a reference is made by the Title Registration Officer concerned under this sub-section, entry will be made in Register of Titles and certificate of recording be issued in accordance with Section 28(3) to the Applicant.

(5) Upon granting of succession under sub-section (2), the Title Registration Officer concerned shall proceed to replace the entries in the relevant register after expiry of the appeal period where no appeal is filed.

**56. Penalty for incorrectly endorsing, copying etc. with intent to injure –**

Every Title Registration Officer appointed under this Act and every person employed in his office for the purpose of this Act, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause, injury, as defined in the Indian Penal Code (45 of 1860), to any person, shall be punishable with penalty as may be prescribed.

**57. Penalty for making false statements, false copies or translations, etc. -**  
Whoever-

- (a) Intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act; or
- (b) Intentionally delivers to a Registrar a false copy or translation of a document, or a false copy of a map or plan; or
- (c) Falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons

to be issued, or does any other act in any proceeding or enquiry under this Act; or

- (d) Abets anything made punishable by this Act, shall be punishable with penalty as may be prescribed.

**58. Removal of Difficulties:**

- (1) If any difficulty arises in giving effect to the provisions of this Act, the appropriate Government may, by notification make such provisions not inconsistent with the provisions of this Act as appear to it, to be necessary or expedient for removal of difficulties.

**59. Access to Registers:**

- (1) All records under the Registers shall be a matter of public record.
- (2) Subject to such Rules as may be made in this behalf, the Registers shall be open to inspection of the public at reasonable hours on all working days.
- (3) Any interested person may approach the Authority for an extract of any information contained in the Registers maintained under this Act, and all such extracts and copies shall bear the seal of the Authority or any officer authorized in this behalf, on payment of such fees as may be prescribed by the Authority.

**60. Immunity for acts done in good faith:**

No legal proceedings or any other claim or action, shall lie against any person for anything done in good faith under this Act or the Rules and regulations made there under.

**61. Power of Government to make Rules and regulations:**

- (1) The appropriate Government may, by notification in the Official Gazette, make Rules and regulations to carry out the provisions of this Act.
- (2) All Rules and regulations made by the State Government under this section shall be laid, as soon as may be after it is made, before the State Legislative Assembly.

**62. Powers of Authority to delegate & issue executive instructions:**

- (1) The Authority may delegate any of its powers to any of its members or officers.

(2) The Authority may issue executive instructions in furtherance of various provisions of this Act and Rules made there under in order to achieve the aims and objectives of this Act, so long as they are not inconsistent with such provisions.

**63. Amendment of relevant laws:**

All other laws inconsistent with the provisions of this Act, e.g., The Indian Stamp Act, 1899, The Registration Act, 1908, The Land Acquisition Act 1894, the Limitation Act, 1963, shall be amended in the manner as may be prescribed.

**64. Repeal and Savings:**

(1) For the removal of doubts, it is hereby stated that, in case of any inconsistency between the provisions of this Act and any other Act, the provisions of this Act shall prevail.

(2) Notwithstanding anything contained in sub-section (1)

(a) All directives issued, before the commencement of this Act, by the appropriate Government under the relevant enactments shall continue to apply for the period for which such directions were issued by the appropriate Government.

(b) The provisions of the enactments, not inconsistent with the provisions of this Act, shall apply to the State.

(c) The State Government may, as and when considered necessary, by notification, amend the enactments.

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