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Registration Department

NOTIFICATION

No. IGR/20/2020-RR9.

Dated, Thiruvananthapuram, 3rd September, 2021
18th Chingam, 1197.

In exercise of the powers conferred by sub-section (1) of section 69 read with section 80A of the Registration Act, 1908 (Central Act XVI of 1908), the Inspector General of Registration hereby makes the following rules further to amend the Registration Rules (Kerala), 1958, issued under notification and published in the Kerala Gazette Extraordinary No. 143 dated 27th December, 1958, with the approval of the Government of Kerala, as required by sub-section (2) of section 69, namely:—



RULES

1. *Short title and commencement.*—(1) These rules may be called the Registration (Amendment) Rules (Kerala), 2021.

(2) They shall come into force at once.

2. *Amendment of the Rules.*— In the Registration Rules (Kerala), 1958,—(1) in rule 11, for sub-rule (2), the following sub-rule shall be substituted, namely:—

“(2) The Registrar and the Sub Registrar, whose office is so amalgamated, when there are more such Sub Registrars than one, the senior Sub Registrar among such Sub Registrars, shall not ordinarily be absent from the headquarters at the same time, whether on casual leave or otherwise. When both officers happen to be absent, the Joint Sub Registrar in the said Sub Registrar’s office, if any, or any other officer not below the rank of Sub Registrar specially authorised by the Inspector General of Registration, shall perform the duties of the Registrar except the work relating to inspection and hearing of appeals and receipt of applications under sections 72 and 73.”

(2) in rule 30, after clause (vii), the following clause shall be inserted, namely:—

“(viii) No document relating to cancellation or revocation of conveyance on sale or settlement deed shall be accepted for registration unless such cancellation or revocation deed is executed by all the executant and claimant parties of the said conveyance on sale or settlement deed, as the case may be:

Provided that nothing in this rule shall apply to an order passed by the Inspector General of Registration under section 83A of the Act:

Provided further that this rule shall not apply to the cancellation or revocation of deeds that are executed by or on the order of a competent officer of the Central or State Government, as the case may be, or of a court of competent jurisdiction.”

(3) for rule 189, the following shall be substituted, namely:—



“189. Where any loss occurred to the Government in the registration of a document, the making of a search or the grant of a copy of a document or in any other case, shall be recovered in the following manner,—

(i) The Registrar shall be the authority under section 80A of the Act to grant certificate for recovery of fees.

(ii) Where fee once paid is subsequently found to be insufficient due to the fact that the value of the property or consideration, as the case may be, has not been truly set forth in the document, such insufficient fees shall be realised on issue of a certificate by the Registrar.

Provided that such certificate shall be granted only after the value of the property set forth in the document has been finally determined by the Collector as per section 45B of the Kerala Stamp Act, 1959 (17 of 1959).

(iii) In all other cases other than which is mentioned in sub-rule (ii), the Registrar shall grant certificate after following the procedure hereinafter prescribed:—

(a) the Registrar may either *suo motu* or on the report of the registering officer, shall call for and examine the document for the purpose of satisfying himself as to the correctness of the fee payable thereon;

(b) on such examination, if he is satisfied that fee payable under the Act has not been paid or has been insufficiently paid, he shall give an opportunity of being heard to the parties concerned and record a statement with respect to the insufficiency of fee, if any;

(c) after considering the statements of the parties concerned and the facts, the Registrar shall pass an order, in writing, determining the fee payable;

(iv) If the Registrar is of the opinion that fee payable under the Act has been duly paid, he shall certify by endorsement thereon and if he is of the opinion that fee payable under the Act has not been paid or has been insufficiently paid, he shall demand the payment of such fee or the difference in the fee already paid and the fee payable, as the case may be. When the deficient fee has been paid thereon, the Registrar shall certify it by endorsement forthwith:



Provided that, any loss occurred to the Government, including on account of deficient stamp duty, due to negligence or carelessness on the part of a Registering Officer concerned, shall be dealt with the provisions of the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960:

Provided further that all the provisions of this rule shall, in all cases, be subject to the control and superintendence of the Inspector General of Registration.”

(4) after rule 207, the following proviso shall be inserted, namely:—

“Provided that, if due to urgent necessity or unavoidable circumstances, any delay is caused to present the application within the prescribed time, the Inspector General of Registration may, condone the delay in fit cases and accept the application, where the delay does not exceed six months.”

(5) in rule 228,—

(a) for clause (j), the following clause shall be substituted, namely:—

“(j) “electronic record” means any electronic record as defined in clause (t) of subsection (1) of section 2 of the Information Technology Act, 2000 (Central Act 21 of 2000).”

(b) after clause (l), the following clause shall be inserted, namely:—

“(la) “Package for Effective Administration of Registration Laws (PEARL)” means a software module developed by the Inspector General of Registration for registration of documents under these Rules.”

(6) after rule 242, the following rule shall be inserted, namely: —

“242A. (1) If any person, after having paid the requisite fee and the other charges prescribed under the Act, through e-payment mode, intends not to register the document subsequently, may apply for refund of the same through Package for Effective Administration of Registration Laws (PEARL);

(2) The application shall contain the name and address of the person who paid the fee and such other details as the Inspector General of Registration may specify from time to time;



(3) In the case of application for refund of fee other than on grounds specified in Rule 207, it shall be made before the Registrar concerned;

(4) The Registrar may, on application made within one year from the date of payment of fee, cancel the token for registration of the document in Package for Effective Administration of Registration Laws (PEARL) and may approve the application after verifying the details provided and send the refund order to the Sub Registrar concerned, for preparing the refund bill;

(5) The Sub Registrar shall, while preparing the refund bill, follow the procedure specified by the Finance Department and the Directorate of Treasuries, from time to time.”

INBASEKAR, K.,
Inspector General of Registration.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

When both the Registrar and the Amalgamated Sub Registrar happen to be absent, the senior most Junior Superintendent in the office the Registrar or in the office of the Amalgamated Sub Registrar shall take charge of the Registrar. In such situations, the Junior Superintendents have to supervise the Sub Registrars of their respective districts, who are their seniors. To avoid this disparity, amendment is to be made in rule 11. Rule 30 also to be amended to curtail the practice of unilateral cancellation of the sale and settlement deeds. Section 80A of the Act provides for recovery of fee in certain cases and empowers to prescribe the manner in which inquiry is to be held to grant certificate for recovery of deficient fee. The Inspector General of Registration, have now prescribed the manner for recovery of such fee. Now the fee for registration of documents is being paid through e-payment. As the refund of fee for documents that are not being registered after payment of requisite fee is processed manually, the Inspector General of Registration, have prescribed the manner for refund through online. Hence it has been decided to amend the Registration Rules (Kerala), 1958 suitably for the above purpose.

The notification is intended to achieve the above object.

