



LAW COMMISSION OF INDIA

THIRTY-FIRST REPORT

**[Section 30(2) of the Indian Registration Act 1908—
Extension to Delhi]**

May, 1967

GOVERNMENT OF INDIA ● MINISTRY OF LAW

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Chairman
Law Commission,
5, Jorbagh, New Delhi-3.
29th May, 1967.

Shri P. Govinda Menon,
Minister of Law,
New Delhi.

My dear Minister,

I have great pleasure in forwarding herewith the Thirty-first Report of the Law Commission on section 30(2) of the Indian Registration Act, 1908—Extension to the Registrar of Delhi.

2. At the Eighty-third meeting of the Law Commission held from 22nd to 25th February, 1967, the Law Commission decided that section 30(2) of the Indian Registration Act should be extended to the Registrar of Delhi. The decision was taken after a consideration of the suggestions received in that behalf.

3. At the Eighty-fifth meeting of the Commission held on the 28th April, 1967, the Commission decided that a separate Report be submitted on the subject. A draft Report on the subject was prepared and circulated to Members at the meeting, and approved at the same meeting, with some minor changes.

4. The draft Report was revised, and the revised draft Report (copies whereof had been circulated to Members) was again approved at the Eighty-sixth meeting of the Commission on the 15th May, 1967. Certain very minor changes suggested at the meeting were carried out, and the Report was signed by the Members at the same meeting on the 20th May, 1967.

5. Our thanks are due to our Secretary Mr. P. M. Bakshi for the help he has given in preparing this Report.

Yours sincerely,

J. L. KAPUR.

REPORT ON SECTION 30(2) OF THE INDIAN
REGISTRATION ACT, 1908—EXTENSION TO
DELHI.

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REPORT ON SECTION 30(2) OF THE INDIAN
REGISTRATION ACT, 1908—EXTENSION TO
DELHI.

1. The subject-matter of this Report may be briefly stated. Under section 30(2) of the Indian Registration Act¹, the Registrar of "a district including a Presidency town" may receive and register any document referred to in section 28 *without regard* to the situation in any part of India of the property to which the document relates. This is an exception to the ordinary rule in section 30(1) read with section 28, under which (to state the matter very broadly), the power of a registering officer is confined to documents relating to property situated wholly or partly within his jurisdiction².

Subject-matter of the Report—Suggestion relating to section 30(2) Registration Act.

(There is a special provision relating to certain documents³, but the documents that usually require registration⁴ fall outside it, and that provision need not therefore be considered).

2. Section 30(2), however (as adapted in 1947), remains confined⁵ to the three Presidency-towns⁶. Now, a suggestion⁷ has been made that it should be extended to Delhi. It is this suggestion which is the subject-matter of this Report⁸.

We quote section 30(2) below, for convenience of reference.

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1. Indian Registration Act, 1908 (16 of 1908).
 2. Section 30(1) read with section 28 and with section 17(1) (a) to (e), section 17(2), 18 (a) (b) (c), etc., Indian Registration Act, 1908 (16 of 1908).
 3. Section 30(1), read with section 29, Indian Registration Act, 1908.
 4. Section 17(1) (a) to section 17(1) (e), Indian Registration Act, 1908.
 5. Paragraph 1, *supra*.
 6. Cf. Rustomji, Registration Act, (1939 Edn.), page 207 for old section.
 7. The suggestion is at S. No. 1 in Law Commission's file No. F. 1(1)/63-LC, and there are similar or connected suggestions at S. No. 8 (Suggestion of the Delhi Administration), and S. No. 14 in that file.
 8. Detailed discussion of the suggestion is in paragraph 4, *infra*.

Section 30(2) as it stood before the Adaptation of Laws Order, 1948.

“(2) The Registrar of a district including a Presidency-town and the Registrar of the Lahore District may receive and register any document referred to in section 28 without regard to the situation in any part of British India of the property to which the document relates.”

Section 30(2) as it stands now.

“(2) The Registrar of a district including a Presidency-town¹ may receive and register any document² referred to in section 28 without regard to the situation in any part of India of the property to which the document relates.”

Why the subject taken up separately.

3. This suggestion¹ was received after the submission of the Law Commission's Report on the comments received on the Sixth Report (Registration Act)². The suggestion is not by way of comment on the Sixth Report, but is an independent one. The point raised also seemed to deserve urgent consideration. It has, therefore, been taken up separately. Any other changes that may appear to us to be desirable in section 30(2) will be dealt with later, when we give our Report on the comments received on the Sixth Report³.

Points in favour of the suggested change.

4. In our opinion, the following points justify the suggested change⁴.

First, Delhi is a cosmopolitan place with a population representing inhabitants of numerous States of India as well as of foreign countries. Transactions involving immovable property situated elsewhere but entered into between parties resident in Delhi are increasing, and are likely to increase further. Secondly, Delhi is fast developing as an important centre of business, and for that reason also, transactions (like mortgages) between residents of Delhi, though affecting property outside it, are not rare. Thirdly, legal talent and draftsmanship of a fairly high order is available in Delhi, so that description of the situation of the property⁵ may be expected to have been done with care and precision. Fourthly, Delhi is the seat of the Central Government, and the Central Government is entering into several transactions affecting immovable properties situated all over India. Instead of the

1. Paragraph 2, *supra*.

2. Sixth Report of the Law Commission (Registration Act).

3. Comments received by the Government of India on the Sixth Report of the Law Commission (Registration Act) have themselves been referred to the Law Commission, and are under the consideration of the Commission.

4. Paragraph 2, *supra*.

5. As to need for accuracy of description, see paragraph 10, *infra*.

parties being required to go to the Sub-Registrar within whose jurisdiction the property is situated, (as at present)¹, it would certainly be advantageous if the Registrar of Delhi is also empowered to register any document relating to any property wherever situate in India.

5. Since registration under section 30(2) has an all India effect², the Registration Act provides several safeguards^{3,4} to ensure that the document registered in a place to which section 30(2) applies will be traceable at the place where a search is likely to be made—usually, the place where the property is situated. Safeguards provided: present.

6. Under the provisions of section 67, on a document being registered under section 30(2), a copy of the document and of the endorsements and certificate thereon is to be forwarded to every Registrar within whose district any part of the property is situate. Further steps to be taken by the Registrar receiving the copy, etc., are to be found in section 66(1); briefly, he has to forward a Memorandum to each Sub-Registrar within whose sub-district any part of the property is situate. The Sub-Registrar, in his turn, has to file it in Book No. 1 under section 66(4). Sections 64 to 67 considered.

The procedure is analogous to that provided by section 65 in relation to a document relating to immovable property situated in more district than one. Compare section 64 also.

7. As has been stated⁵, the effect of sections 64, 65 and 66 is that information is conveyed to the Registrars or Sub-Registrars of every place where the document ought to be registered, and thus all the information which it is the object of a register to afford is to be found in those different places.

8. Compliance with section 67 should be full and prompt in order to attract the benefit of the provisions relating to "notice" in the Transfer of Property Act^{6,7} which are applicable⁸ only when the memorandum contemplated by section 67 read with sections 66(1) and 66(4) is transmitted by the receiving Registrar to each Sub-Registrar concerned and filed by the latter in Book No. 1 (Book No. 1 is

1. Section 28, Indian Registration Act, 1908.

2. Paragraph 1, *supra*.

3. See section 67 read with sections 66(1), 66(4) and 51(1), Indian Registration Act, 1908. These supplement section 51(2).

4. See Paragraphs 6 and 7, *infra*.

5. See *Hari Ram v. Sheo Dayal Mal*, (1888) I.L.R. 11 All, 136, 141, 142, (P. C.) on appeal from I.L.R. 7 All, 590.

6. See section 3. Definition of "notice". Explanation 1, latter half. Transfer of Property Act, 1882.

7. *Cf. Banares Bank Ltd. v. Har Prasad*, A.I.R. 1936 Lah, 482, 483 (D.B.).

8. See Mulla, Transfer of Property Act (1966), Page 37.

"Register of non-testamentary documents relating to immovable property")¹.

9. If the formalities required by section 67 read with the preceding section² are not fulfilled, then registration under section 30(2) would not operate as "notice" under the Transfer of Property Act. The whole purpose of the Registration Act is, as was observed by Lord Atkinson during the course of the arguments in a Privy Council case³, to ensure that people may come to the Registering office and get information as to encumbrances of property.

Importance
of accurate
description.

10. It is, therefore, necessary that description of the property should be as accurate as possible. As to the importance of accurate description, a reference to the under-mentioned case⁴ would be enough where the following observations occur :—

"The object of registering a document is to give notice to the world that such a document has been executed and is in force. Persons who may seek to acquire any property covered by such an instrument are entitled to have the instrument so clearly worded that they can, while searching the register, come upon the deed quickly and have no doubt as to its contents. The object of the statute would be to a great extent nullified and innocent persons exposed to great hardship and loss if they (the words of the section) could be treated as purely directory."

Derivative
registration.

11. Registration under section 67 is analogous to that under section 65. The latter was described by Lord Moulton (in the course of argument in a Privy Council case)⁵ as "derivative registration".

Recommendation.

12. After a consideration of the various aspects⁶, we have come to the conclusion that there is sufficient justification for extending section 30(2) to Delhi. We, therefore, recommend that section 30(2) of the Indian Registration Act, 1908, may be extended to Delhi, by a suitable amendment.

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1. Section 51(1). Indian Registration Act, 1908.
 2. Paragraphs 6 and 7, *supra*.
 3. *Chokalingam v. Chettiar*, (1927) 47 Calcutta Law Journal 429, 430; I.L.R. 6 Rangoon 113; A.I.R. 1928 P. C. 44; (See Rustomji, Registration Act, 1939, Page 173, where the arguments are referred to).
 4. *Sajid Mahmud v. Mohammad Zahir*, (1909) I.L.R. 31 All, 523, 526.
 5. *Mathura Prasad v. Chandra Narain*, I.L.R. 48 Cal. 509; 25 C.W.N. 985; 23 Bombay Law Reporter 629, 630; (See Rustomji, Registration Act, 1939, Page 369, citing the argument).
 6. Paragraphs 4 to 11, *supra*.

13. In order to give a concrete picture of our recommendation¹, we have in an Appendix shown it in the form of a draft amendment to the existing Act. Appendix.

1. J. L. KAPUR—Chairman.

2. K. G. DATAR

3. S. S. DULAT

4. T. K. TOPE

Members

5. RAMA PRASAD MOOKERJEE

• P. M. BAKSHI,
Joint Secretary and
Legnslative Counsul

New Delhi,
The 20th May, 1967.

1. Paragraph 12, *supra*.

APPENDIX

*Recommendation as shown in the form of a
draft amendment*

(This is a rough draft only)

16 of 1908

In section 30 of the Indian Registration Act, 1908, for sub-section (2), substitute the following sub-section, namely :—

“(2) The Registrar of a district including a Presidency-town, *and the Registrar of the Delhi District* may register any document referred to in section 28 without regard to the situation in any part of India of the property to which the document relates.”