OFFICE OF DIVISIONAL COMMISSIONER
GOVERNMENT OF NCT OF DELHI
5 SHAM NATH MARG, DELHI 110 054

No.F.1(15)Regn.Br./Div.Com/2005/502/1137-1164 Dated: 04/10/06

ORDER

This office order No.F.1(5)/05/Regn.Br./Div.Com/2005/270-290 dated 1st June, 2005 and order No. F.1(5)/05/Regn.Br./Div.Com/2005/427 dated 28th June, 2005 were revised vide order No.F.1(5)/05/Regn.Br./Div./Com./2005/6655 dated 05.12.2005 in view of the judgment of Hon'ble High Court of Delhi dated 14th Sept., 2005 in the WP(C) No.13035 and WP(C) No.1306 of 2005 both titled as M/s. Breme Developers (P) Ltd. and another Vs. GNCT of Delhi. This order was further challenged in WP(C) No. 21372380 in a case titled Mahender Singh & Others Vs. Sub-Registrar-VI. The Hon'ble Court in its judgment dated 12th Dec., 2005 has observed that registration can not be refused for the contravention of the provision of section 33 of DLR Act. A copy of this judgment is enclosed.

The above judgment clearly indicates that the objective of checking fragmentation of agricultural land holding as stipulated in the DLR Act, can not be achieved by placing restrictions on the registration of instruments under the Registration Act. This view is further strengthening by the ruling of Hon'ble Supreme Court in S. Sujan Singh Vs. Yad Ram in which the order dated 22.12.1971 of Hon'ble High Court, Delhi in RSA281D/1965 was challenged. The ruling is reproduced below:

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"Bhumidhari right is transferable and the defendant 1 is entitled to use the land even for the purpose other than those enumerated in Section 22 if he obtains permission of the Chief Commissioner. Therefore the agreement for transfer of land does not become invalid by itself. The defendant 1 after obtaining the property could use it for the intended purpose on obtaining permission of the Chief Commissioner or if no such permission was obtained, he could use the land for the purposes authorized under Section 22 of the Act. In our opinion, the High Court went wrong in holding that the agreement was opposed to public policy or transfer under the agreement was hit by Section 23 of the Act."

Considering above facts, it is clarified that in case a Bhumidhar sells a part of his holding which is less than eight acres, the same need not be denied registration by the Registration Authority under the Registration Act. However, as decided by the Hon'ble High Court, in the enclosed judgment dated 12th Dec., 2005, the Revenue Authorities shall look into the issue of violation of Section 33 in pursuant to sell, at the time of mutation when the transfer of Bhumidhari right is claimed and in case violation of Section 33 is noticed necessary action as contemplated under Section 42 of the DLR Act, 1954 shall be taken.

04/10/06

(NARENDRA KUMAR)
DIV. COMMISSIONER, DELLHI

No.F.1(15)Regn.Br./Div.Com/2005/502/1137-1164 Dated: 04/10/06

1. All Dy.Commissioners.
2. ADM (HQ-I & II).
3. SDM (HQ-I, II & III).
4. All Sub-Registrars.

04/10/06

(NARENDRA KUMAR)