

GENERAL POWER OF ATTORNEY AND TRUST DEEDS:

As laid down under Section 51 of The Registration Act, 1908 the following books shall be kept in the several offices namely:

Book 1 : Register of non-testamentary documents relating to Immovable property.

Book 2 : Record of reasons for refusal to Register. Book 3 : Register of Wills and authorities

to adopt Book 4 : Miscellaneous Register

Book 5 : Register of Deposit of Wills.

The Registration Act prohibits supply of Certified copy of documents registered in Book-IV to the third parties except the parties for execution. . As laid down under Rule 144 of Karnataka Registration Rules 1965, copies of documents in Book No. IV cannot be granted to persons interested in deals in any way other than as agents and representatives of the parties to the deed.

Right to Information Act, 2005 recognises all books maintained in the Office of the Sub Registrar as “INFORMATION” as defined under Section 2(f) of the Act. On study of various orders issued by Karnataka Information Commission, Central Information Commission and various other State Information Commissions it is analysed that Except WILLS other information held in the Offices of the Sub Registrars are not exempted under any of the sub sections of Section 8 of the Right to Information Act. Only “Wills” are considered as information held by the Public Authority in their Fiduciary Relationship. Hence all Information Commissions recognised “WILLS” as information which are exempted from disclosure as laid down under Section 8(1)(e) of the Act.

Further as laid down under Section 22 of the Right to Information Act, 2005, “The Provisions of this Act shall have effect notwithstanding anything in consistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act”.

Information held in Book-IV i.e. in Miscellaneous Register viz., General Power of Attorney, Trust Deeds cannot be claimed as exempted information as defined under Section 8 of the Act. Hence Section 22 of the Right to Information Act, 2005 will have overriding effect on such information and has to be disclosed under RTI.

Para 18: “Section 22 of RTI Act provides that the provisions of the said Act will have effect,

The observations of the Supreme Court in WP No. 6454 OF 2011
[Arising out of SLP [C] No.7526/2009] CBSE Vs. Aditya Bandopadhyay Judges: RV Raveendran & AK Patnaik; 9 August 2011. (2011) 8 SCC 497 held as under:

notwithstanding anything inconsistent therewith contained in any other law for the time in force. Therefore the provisions of the RTI Act will prevail over the provisions of the bye-laws/rules of the examining bodies in regard to examinations. As a result, unless the examining body is able to demonstrate that the answer-books fall under the exempted category of information described in clause (e) of section 8(1) of RTI Act, the examining body will be bound to provide access to an examinee to inspect and take copies of his evaluated answer-books, even if such inspection or taking copies is barred under the rules/bye-laws of the examining body governing the examinations.”

The District Registrar, Belgaum, who heard the First Appeal, directed the Sub Registrar, Belgaum, on 6.2.2014 to provide copy of GPA under the Act. The Public Information Officer provided the Copies of General Power of Attorney as per the directions of the First Appellate Authority. This was disclosed by the PIO and the same was recorded in the proceedings during hearing of Appeal

before the Karnataka Information Commission in Appeal No. KIC: 4812: 2014 dated 9.9.2014.

There are several occasions wherein First Appellate Authorities in the Stamps and Registration Department have directed Public Information Officers to provide this information under Right to Information Act.

Central Information Commission in their Order No. CIC/ AD/A/2012 / 003475-SA dated 20.1.2014 held as under :: "According to law, GPA is an authority to represent the principal i.e. he is an agent/authorized representative of principal party. He would be part of executing party. When he is part of executing party, he cannot be treated as third party and copy of GPA is part of the record which can be disclosed and is not exempted under any provisions of RTI Act.

Further CIC held that "Q.No.2 pertains to GPA which the Respondent claims which cannot be provided as per Registration Act, 1908. The Commission brought to the attention of the Respondent that section 22 gives overriding powers to the RTI Act over other Acts and the information sought under RTI can be denied using the relevant provisions of RTI Act and not from any other Act."

Karnataka Information Commission in its order in KIC 482 COM 2008 dated 26.2.2009 also held that Certified copy of Trust Deed as sought by the Petitioner shall be provided.

Full Bench of Karnataka Information Commission in their Order in KIC 7763 APL 2014 dated 26.8.2015 directed the Public Information Officer and Sub Registrar, Gubbi, to provide Certified copy of General Power of Attorney to the Appellant.

Hence documents registered in Book IV are not exempted from disclosure under Right to Information Act, 2005.