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# E-REGISTRATION OF DEEDS IN WEST BENGAL

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## Introduction

As a part of e-governance initiatives taken up by Government of West Bengal under the National e-Governance Plan (NeGP), the Government of West Bengal has recently operationalised registration of e-sale deeds on its portal. Such process assumes additional significance in view of the ongoing disruption created by COVID-19 pandemic.

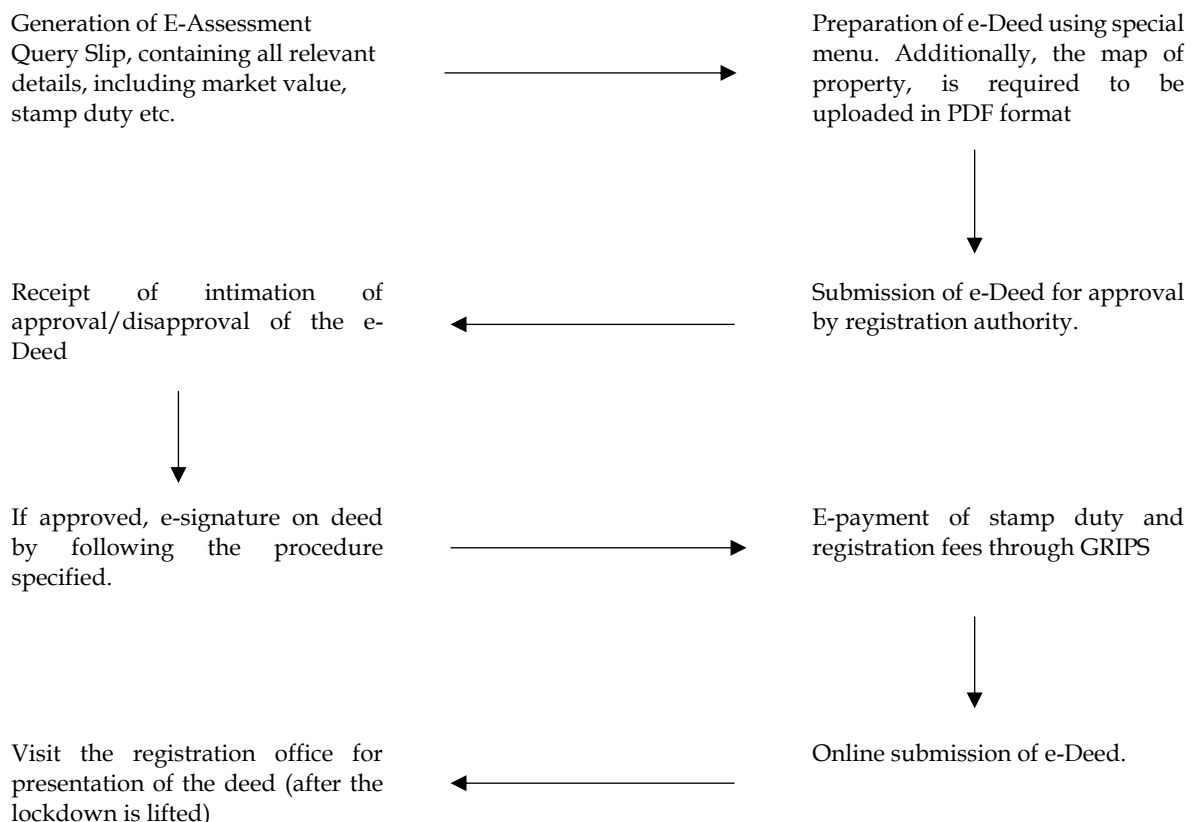
This update provides a brief overview of the process of e-registration and attempts to clarify some of issues which may arise while e-registering. Please note that this update has been prepared for general information purpose only and nothing contained herein should be treated as a legal advice.

## E-registration – Legislative Framework

Sub-rule (6) of Rule 124 of the West Bengal Registration Rules, 1962, which was introduced *vide* notification no. 05/IGR-Kolkata, dated December 9, 2019, allowed for registration of *e-Deeds*.

## Procedure for E-registration

The detailed procedure for registration of e-Deeds may be accessed from the procedure specified in the website of the Directorate of Registration and Stamp Revenue, West Bengal at <https://wbregistration.gov.in>. However, the process flow may be summarised as follows:



The following section addresses some of the *Frequently Asked Questions* which a buyer/ seller/ promoter/ developer may have while undertaking the process of e-registration:

**Q1. Has the registration of e-Deed been operationalised on account of the COVID-19 pandemic?**

No. As has been noted by us earlier, the registration of e-Deeds has been allowed pursuant to notification no. 05/IGR-Kolkata, dated December 9, 2019, which pre-dated the Covid-19 pandemic outbreak in India.

**Q2. Is there any remission on stamp duty and registration fees for undertaking registration of e-deeds?**

The Finance Department of the Government of West Bengal on April 17, 2020, has issued an order No. 471-F.T (effective from April 20, 2020), whereby, subject to a maximum of Rs. 20,000 (Rupees twenty thousand), remission of 20% (twenty percent) of the applicable registration fees, payable on all deeds related to *sale or purchase of immovable property*, has been allowed, provided these deeds are submitted for registration using the e-Registration module, on or before May 31, 2020.

**Q3. The previous response noted that the remittance is for *sale or purchase of immovable property*. However, can the various types of deed such as developmental agreements and lease deeds be registered online, after paying the full registration fees?**

Since the e-registration process requires the execution of an e-Deed, only those deeds whose formats are available on the portal can be e-registered. Currently, only the format for a sale deed is available, and therefore other kinds of deeds cannot be registered online.

**Q4. Does that mean this process cannot be availed by uploading a scanned copy of an executed deed?**

Yes. E-registration is possible only of an e-Deed and not of any other instruments. Hence, signed and executed deeds cannot be e-registered. In such cases, we suggest creating and executing an e-Deed on the portal again.

**Q5. Since I cannot upload a deed on my own, can I make changes to the terms and conditionals of the template deeds?**

The system contains an existing list of terms and conditions and one must choose from them. However, conditions can also be entered or edited to an extent.

**Q6. Can the promoter/ developer choose to define common areas as per the understanding between them and the allottees?**

No, the current system does not let a promoter define common areas as per the commercial understanding between the promoter/ developer and the allottee. The definition of common area's must be selected within the parameters provided in the e-Deed.

**Q7. Would e-registration process obviate the requirement of visiting the registration office completely?**

No. To complete the process, the parties would have to visit the proper registration office to complete the registration process.

**Q8. Do you see any complications arising out of the system?**

Not on the process or implementation side, but there are certain unresolved issues. For instance, there is no clarity as to the status of the documents submitted for e-registration, unless the last leg of visiting the registration office is completed. This would have a huge impact in terms of priority of registered documents in terms of Section 48 of the Registration Act, 1908. Further, it is not clear as to whether there is any timeline within which the physical visit to the registration office is required to be completed and the effect of failure to meet the timelines.

**Q9. Finally, is it mandatory to use the e-registration service?**

No, it is not.

Interestingly, after the promulgation of the December 9 Notification, a notice was issued by the A.D.S.R., Ranaghat-I and the A.D.S.R., Domkal, Murshidabad respectively, whereby it was intimated that, from January 2, 2020, sale deeds valued at Rs 50,00,000 (Rupees fifty lakh) or more would compulsorily be registrable online in the e-Deed format. This notice was struck down by the Calcutta High Court in the *Bibhas Saha and Others v. The State of West Bengal* (W.P. No. 24366(W) of 2019, decided on January 15, 2020) case, wherein the Court categorically held that e-registration could not be made mandatory and that the online registration and e-filing with regard to all deeds/documents, irrespective of valuation, would be optional.

*This update has been contributed by Arka Majumdar (Partner) and Ayushi Jain (Associate).*

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