



Sale by Power of Attorney in India

The issue of Indian powers of attorney has been raised a few times recently on notarytalk. It has been a practice in India to hold and transfer immovable property by way of executing general powers of attorney. This matter was recently examined by the Supreme Court of India and the court has held that a transfer of immovable property by way of sale can only be by a deed of conveyance (sale deed). In the absence of a deed of conveyance (duly stamped and registered as required by law), no right, title or interest in an immovable property can be transferred.

The concept of power of attorney sales have been recognised in India as a mode of transfer for a long time. Such powers of attorney are misleading the general public into thinking that such transactions are some kind of recognised or accepted mode of transfer and that it can be a valid substitute of a sale deed.

The Supreme Court of India has clarified that a general power of attorney transactions are not “transfers” or “sales” and that such transactions cannot be completed transfers or conveyances. It is quite clear from the above that there are no restrictions on any other powers of attorney which are sent from England and Wales to any part of India.

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