



Introduction on Title - Search of Immovable Property

Why Title Search of Immovable property is required?

Legal Requirement

- Section 41 of Transfer of Property Act, 1882 (Bonafide buyer)
- Section 3 - (2) (b) of Maharashtra Ownership Flats Act, 1963 (Requirement of promoter)
- Condition as prescribed in change of use order or any other order applicable if any.
- Section 4 (I) (A) of The real estate (regulation and development) Act, 2016



Why Title Search of Immovable property is required?

Commercial Requirement

- To find title related issues
- To find actual cost of acquisition of immovable property
- To find encumbrances/litigation (pending/ disposed) on property
- To arrive at calculation of outcome
- To find actual area of property
- To find use of property
- To find total dues in respect of property.
- To find Actual value of the property
- To build power of negotiation
- To Defer instalment of payment



When title search of immovable property is required?

- Intend to acquire right/ title/ interest/ claims of a property for various purpose -- (i.e. end use, investment, development, joint ownership, entitlement against the property, etc.)
- Alienating right, title, interest, claims of property – (i.e. outright sell, transfer of development rights, requirement under RERA, project finance for development)
- Mortgage/ Lien/ Charge on Property – (Bank, Financial Institution, Investor etc.)
- Rent/ Lease out/ conducting agreement of the Property -- (Leasee/ Lessor etc.)
- Revaluation of Property -- (Accounting Purpose)
- Development permission, change of use -- (competent authority)
- Safeguard of property -- (owner of the property)



Procedure for Title Search



Peruse:

- Title documents and Revenue record
- Applicable Statutes, notifications and Development Plan
- Record of Index – II available in the office of Jurisdictional Sub – Registrar Assurance
- Suit register/ inward register/ disposal register of Jurisdictional Civil or any other court
- Available documents in record of Lessor (in case of leasehold land).
- Documents in ROC in case Vendor is Ltd. Co.
- Publish a paper notice inviting objections

Procedure for Title Search



Obtain

- Declarations/ Affidavits on oath from relevant persons.
- Advocate certificate for not receiving objections in response to paper notice.
- NOC/ No due certificate of Property Tax department, Electricity board, Water Tax department and any other competent department.
- Architect Certificate for “Use of Property”

Relevant title documents.

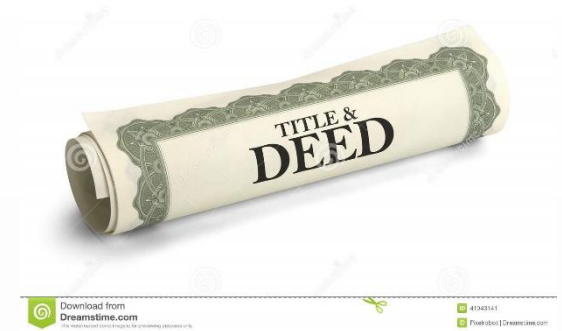
Source of document:

- Provided by Vendor
- Find in record of Lessor
- Find in record of jurisdictional Civil Court or any other competent court
- Find in Office of jurisdictional Sub – Registrar
- Find in record of Mortgagor Bank



Relevant title documents.

What to Check?



- Whether document is registered under section 17 of Indian Registration Act, 1908 ?
- Whether appropriate stamp duty is paid as per the applicable statute?
- Whether document is executed by appropriate person?
- Whether document is properly witnessed?
- Whether receipt is issued against the payment of consideration?
- Whether consideration is paid or unpaid ?
- Whether possession is handed over or not ?
- Whether description of property is matching with subject property?
- Whether TDS certificate is issued in favour of Payer? (if applicable)

Revenue record.

Source of document:

- Tehasildar Office, Talathi Office and Circle Office (7 X 12, 6 – A, 8 – A extracts)
- Municipal Office (Property Card)
- Lessor Office (CIDCO, MIDC etc.), Title Documents, Court Proceedings, Registrar Office, mortgager Bank etc.
- Names of property owner appearing in revenue record ?
- Area of property appearing in revenue record ? (productive area, unproductive area etc.)
- Tenants appearing in revenue record ? (details of tenancy proceedings if any)

GOVT. OF MYSORE
DEPT. OF SURVEY SETTLEMENT AND LAND RECORDS

AB No. 478 PROPERTY CARD

Div. No.	Name of the area	P.T. Sheet No.	City Survey No.	Area in Sq. Mts.	Tenure	Assessment

Easements

Name of the Holder

Lessee


Other encumbrances

Other Remarks

Date	Transaction	Vol. No.	New Holder (H) Lessee (L) or Encumbrances (E)	Attestation

Revenue record.

What to Check?

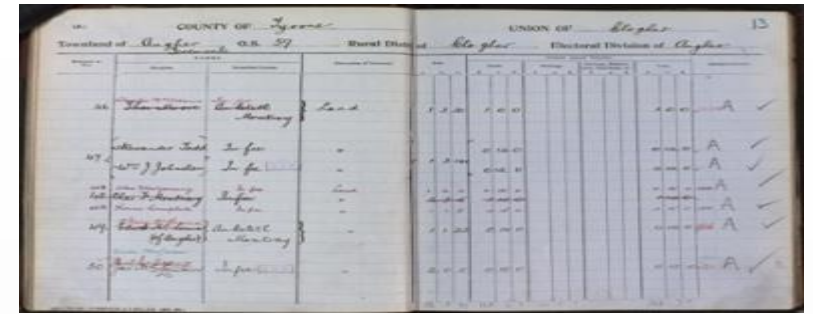
CLASSIFICATION: Painting	PROPERTY CARD-ART SUBJECT: Die Conquerung of Paris by Henry IV	NO: W 18 01/16/13
AUTHOR: Rubens		PRESUMED OWNER: Staatl. Museen, Berlin
MEASUREMENTS: 0,24 x 0,45 m	MATERIAL: Oil on panel.	INV. NO. 798 B
WEIGHT:		CAT. NO.
DEPOT POSSESSOR:	ARRIVAL CONDITION: Good - unboxed.	
DEPOT NO:		
IDENTIFYING MARKS:	DESCRIPTION: Die Schlacht von Paris durch Heinrich IV. befehligt mit seinen Leuten diese seinen Eltern Könige Ludwig. Frank.	
		FOR OFFICE USE CLAIM NO. OTHER PHOTOS. REG. NO.
BIBLIOGRAPHY: Transferred to the custody of the Hessian Minister President in accordance with Law 19		MOVEMENTS: no shipment no. 1 Auf 11 98

- Encumbrances in (other rights) appearing in revenue record ? (mortgage, charge, acquisition etc.)
- Type and nature of property appearing in revenue record ? (Agriculture, NA, forest etc.)
- Type of tenant appearing in revenue record ? (protected, unprotected etc.)
- Reservations on property appearing in revenue record? (school, garden, trust etc.)
- Information with regards to land survey.
- Information with regards to all tenancy proceedings and notice of Lis pendance if any.
- Information with regards to cultivation upon the land if any.

Index record.

Source of document:

- Obtain Search permission from Sub – Registrar by paying requisite fees.
- Jurisdictional Registrar Offices



Surname	Givensname	Year	Type	Age	Page	Event	Signature	Sex	Father	Fathername	Fathername	Mother	Mothername	Mothername	Comments	Town
HELMAN	Moshe	1873	B	54	872	M	Salomon	M	HELMAN	Okopy	Rifka	WEITMAN				
	Dawida	1877	B	51	873	F	Abraham	M	HELMAN	Okopy	Reiza	ASKELEAD				
	Rachel	1877	B	67	873	F	Menachem	M	SPARBER	Okopy	Reiza	WALZER				
	Chaja Bracha	1877	B	69	873	M		M			Reiza	WEISSMAN				
	Leizer Zisman	1877	B	110	873	M	Hirsh	M	WEISSBERG	Okopy	Chaya	SPARBER				
	Eliezer	1877	B	120	873	F	Schloime	M	HELMAN	Okopy	Reiza	WEITMAN				
	Nathalie	1877	B	130	873	M	Menas	M	KRUFER	Okopy	Chaya	STARCK				
	Nathan	1877	B	148	873	M	Eliezer	M	WEISSMAN	Okopy	Chaya	ROSENBLATT				
	Dawida	1877	B	170	873	F		F			Rachel Lina	HEINSTEIN				
	Majda Chaim	1877	B	184	873	M	Moses Izig	M	SPITZER	Okopy	Rachel	SPITZER				
	Leizer	1877	B	199	873	M		M			Leizer	HELMAN				
	Rachel	1877	B	201	873	F	Leizer	F	LIBRASS	Okopy	Sara	LIBRASS				
	Nathalie	1878	B	1	873	M	Mendel	M	FISZLER	Okopy	Rachel	WEINBLATT				
	Dawida Lina	1878	B	10	873	F	Wolf	F	MISKBERG	Okopy	Chaja Bracha	WEISSMAN				
	Edmud	1878	B	52	873	F		F			Lina	WEISSMAN				
	Gwendol Perga	1878	B	113	873	F	Abraham	M	WEISS	Okopy	Sara Rifka	HEINSTEIN				
	Dawid	1878	B	114	873	M	Isidor	M	WEISSBERG	Okopy	Schloime	HEINSTEIN				
	Eliezer	1878	B	138	873	F	Abraham	M	SCHACHTER	Okopy	Baths Hinda	SUMER				
	Elison Fines	1878	B	150	873	M	Isidor	M	FLEMINGER	Okopy	Gewa	WEISSMAN				
	Sara Rachel	1878	B	154	873	F	Eliezer	F	HELMAN	Okopy	Chaja Jenny	HELMAN				
	Pegla Rachel	1879	B	1	873	F	Isidor	F	ZUCKER	Okopy	Chaja Hinda	MENGER				
	Moshe	1879	B	140	873	F	Majda	F	TROPPER	Okopy	Leizer	HELMAN				
	Eliezer	1879	B	156	873	F		F			Mari	ROSENBLATT				
	Isidor Wolf	1878	B	163	873	M	Isidor	M	HELMAN	Okopy	Schloime	HEINSTEIN				

What to Check?

- Whether any document alien to title chain is registered ?
- Whether names appearing in index record are matching with revenue record ?
- Whether any Notice of Lis – Pendence is registered in respect of property?
- Whether a title chain as per index record is matching with revenue record?

Applicable Statute and notifications.

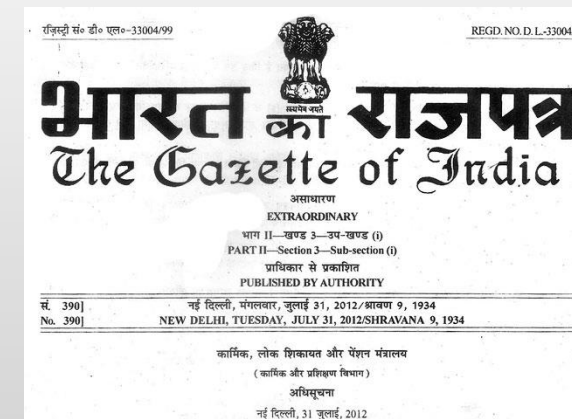
Legal Source:

- Bare Acts (All statutes)
- Government Gazette (all Notifications)



What to Check?

- Whether the property can be transferred and permission of competent authority is required ?
- Whether construction activity can be carried out on the property and what FSI is provided to property?



Civil Court or any other court .

Source :

- Inward/ suit/ disposal of suit register of the court
- Computerised record available in court

What to Check?

- Whether any suit is pending in court ? (ongoing dispute)
- Whether any caveat is filed against any claimant?
- Whether any matter is disposed ? (refer all case papers and orders)
- Whether any heirship certificate is issued by the court?
- Whether any stay/ status – quo granted ?



Available documents in record of CIDCO

Source of document:

- File with CIDCO office



What to Check?

- Whether names appearing in award are matching with the owner of the property ?
- Whether lease premium mentioned in award is paid or unpaid ?
- Whether name appearing in intent letter, allotment letter, Agreement to Lease, Lease Deed and ancillary required documents is matching with the name of property owner?
- Whether any Memorandum of understanding executed with any third person?

Available documents in record of CIDCO



What to Check?

- Whether allottees are only entitle to the property ?
- Whether appropriate procedure is followed in case of death of any of the allottees ? (heirship Certificate, Varas Panchanama by Tahasildar)
- Whether allottees are only entitle to the property ?
- Whether possession of original acquired land is taken over by CIDCO?
- Whether any litigation is appearing to be pending and any order is passed by any court ?
- Whether any LAR is pending? Whether any affidavit for payment of additional lease premium is filed by land owner?

Available documents in record of CIDCO



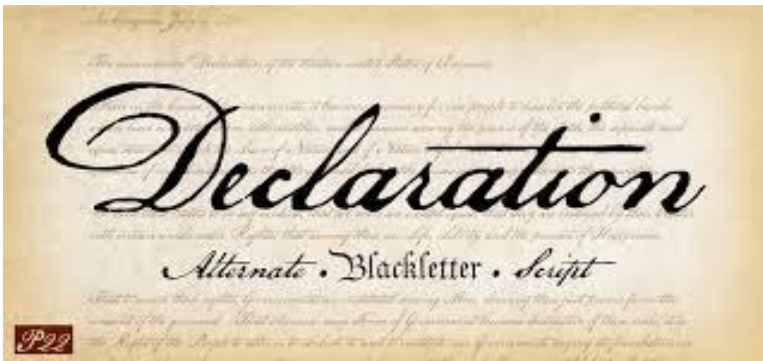
What to Check?

- Whether any objection is raised by any claimant, any notice of Lis – Pendens is issued?
- Whether any alien registered or unregistered document is available in record of Lessor?
- What FSI is provided to the property?
- Whether any condition or additional condition with regards to property is prescribed by the Lessor?



Procedure:

- Issue Public Notices in at least two local newspapers (one in vernacular and the other in English circulating in the area where the property is situated) inviting claims of any member of the public against or in respect of the property in question.



Declaration and Affidavits on oath

Deponents and contain of declaration cum affidavit:

- Property owner – Declaration of clear and marketable title in respect of property
- Claimant – Declaration for releasing all right, title, claim and interest in the name of original property owner
- Legal heirs -- Declaration for releasing all the right, claims and interest in the name of original property owner
- Advocates and Architect declaration



NOC/ No dues Certificate from Competent Authorities:

- No objection Certificate of Property Tax department, Electricity board, Water Tax department and any other competent department.

Government Web sites:

Reason to refer

- Find pendency and interim order passed during the pendency
- Find order passed in disposed matter
- Find index – II
- Find revenue record
- Find notifications and statutes



Benefits of Title Search

- To meet legal requirement
- To ascertain all Title related issues
- To ascertain the Actual acquisition cost of property
- To aid in boosting up power of negotiation
- To defer instalments of payment
- To ascertain the time period for acquisition of clear and marketable property



