

F. NO. N-15011/211/2024-NC
GOVERNMENT OF INDIA
MINISTRY OF LAW & JUSTICE
DEPARTMENT OF LEGAL AFFAIRS
(Notary Cell)

4th Floor, Middle Wing
Janpath Bhawan, New Delhi,
Dated the 10th October, 2024

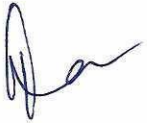
OFFICE MEMORANDUM

Subject: Execution of marriage/ divorce deeds by Notaries- Reg.

The Notaries Act, 1952 and the Notaries Rules, 1956 regulate the profession of Notaries. In pursuance of Section 3 of the Notaries Act, 1952, the Central Government, for the whole or any part of India and any State Government, for the whole or any part of the State, may appoint as Notaries any legal practitioners or other persons who possess such qualifications as may be prescribed. The functions and duties of Notaries are enumerated in Section 8 of the Notaries Act, 1952. The transaction of business by a Notary is regulated by Rule 11 of the Notaries Rules, 1956.

2. It is clear from the plain reading of Section 8 of the Notaries Act, 1952 and sub-rule (8) of Rule 11 of the Notaries Rules, 1956 that execution of marriage or divorce affidavit is not the function of the Notary. The functions of Notaries as envisaged in Section 8 of the Notaries Act, 1952 and sub-rule (8) of Rule 11 of Notaries Rules, 1956 do not authorise any Notary to notarise an affidavit of marriage or divorce. Neither the Notary is authorized to certify the marriage nor competent to execute the divorce deed under the Notaries Act, 1952 and the Notaries Rules, 1956. A Notary has not been appointed as a Marriage Officer.

3. Despite the above legal position, it has come to notice that some Notaries are executing documents regarding marriage, divorce, etc. Further, some Notaries are also issuing Marriage Certificates and allowing the execution of declarations of marriage between the parties, which has far-reaching consequences.



4. Hon'ble High Court of Orissa and Hon'ble High Court of M.P. have also clearly held that Notaries are not appointed as Marriage Officers and they are not authorised to execute marriage or divorce deeds. References may be made to the following decisions in this regard: -

- (i) Partha Sarathi Das Vs. State of Orissa and Others;
2023 SCC OnLine Ori 5657 of Hon'ble High Court of Orissa
(Date of judgment - 14.09.2023)
- (ii) Mukesh S/o Mr. Lakshman @ Lakshminaryan Vs. The State of M.P.,
M. Cr. C. No. 44184 of 2020 of Hon'ble High Court of M.P.
(Date of judgment - 31.12.2020)
- (iii) Bundel Singh Lodhi Vs State of M.P.,
M. Cr. C. No. 15168 of 2021 of Hon'ble High Court of M.P.
(Date of judgment - 30.04.2021).

5. An act or omission on the part of any Notary in respect of any provision of the Notaries Act, 1952 or the Notaries Rules, 1956 will be seen as professional misconduct and the Notary concerned will render himself/herself liable to be dealt with in accordance with the provisions contained in Rule 13 of the Notaries Rules, 1956 and action may also be taken against him/her by the appropriate Government under sub-rule (12) (b) of Rule 13 of the Notaries Rules, 1956 and sub-section (d) of Section 10 of the Notaries Act, 1952. Names of such Notaries who have been found to be guilty of professional or other misconduct rendering them unfit to practise as Notaries may also be removed from the Register of Notaries by an order of the appropriate Government in pursuance of the provision contained in sub-section (d) of Section 10 of the Notaries Act, 1952. The Hon'ble Supreme Court of India in the matter of Bhagwan Singh Vs. State of U.P. & Ors. in Diary No. 18885 of 2024 has observed as under in judgment/order dated 20.09.2024: -

"37. Similarly, the Notaries Act 1952 regulates the profession of Notaries. The functions and duties of Notaries are enumerated in Section 8 thereof. The transaction of business by a Notary is contained in Rule 11 of the Notaries Rules 1956. Any acts or omissions thereof, on the part of the Notary would tantamount to misconduct, and the person complained against would be unfit to be a Notary."

6. In view of the above, it is brought to the notice of all concerned that Notaries appointed under the Notaries Act, 1952 should desist themselves from executing marriage or divorce deeds as they are not appointed as Marriage Officers. Such actions on their part are against the extant law. Any omission or commission of the Notaries Act, 1952 or the Notaries Rules, 1956 in this regard on the part of any Notary will tantamount to misconduct and action will accordingly be taken against such Notary in accordance with the provisions contained in Notaries Act, 1952 and Notaries Rules, 1956.



(Rajeev Kumar)

Deputy Secretary to the Govt. of India

To

All Notaries appointed by Central Government.