

Acquisition and Transfer of Property in India

2018 MHA Legal



Person Resident in India

By Indian Resident Citizens and Body Corporates incorporated in India

- Freely permitted without any restriction.

By Place of Business

- A branch office or other place of business (excluding a liaison office) established in India is permitted to acquire any immovable property in India, which is necessary for or incidental to carrying on business activity in India provided all applicable laws, rules, regulations or directions for the time being in force are duly complied with and form IPI is filed with RBI within 90 days from the date of such acquisition.
- However, a place of business established by an entity of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Hong Kong, Macau, Nepal, Bhutan or Democratic People's Republic of Korea (DPRK) is permitted to acquire immovable property only by way of lease not exceeding five years.
- Liaison office is permitted to acquire immovable property for its business activities only by way of lease not exceeding three years

Person Resident in India

By Foreign Citizens qualifying as resident Indian

- Freely permitted except citizens of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Hong Kong, Macau, Nepal, Bhutan or Democratic People's Republic of Korea (DPRK).
- Citizens of above mentioned countries are not permitted to purchase immovable property in India, they can acquire immovable property only by way of lease for a maximum period of five years.

By an NRI or an OCI

By way of sale

Permitted to acquire immovable property in India by ways of sale other than agricultural land/ farm house/ plantation property provided that the purchase consideration is made out of

- (i) funds received in India through banking channels by way of inward remittance from any place outside India or
- (ii) funds held in any non-resident account maintained in accordance with the provisions of FEMA.

No payment for any transfer of immovable property is permitted to be made either by traveler's cheque or by foreign currency notes or by any other mode.

By way of Gift

Permitted to acquire immovable property in India other than agricultural land/ farm house/ plantation property by way of gift from a person resident in India or from an NRI or from an OCI, who in any case is a relative as defined in section 2(77) of the Companies Act, 2013;

By an NRI or an OCI

By way of inheritance

Permitted to acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property

- in accordance with the provisions of the foreign exchange law in force at the time of acquisition;
- from a person resident in India;
- transfer any immovable property in India to a person resident in India;
- transfer any immovable property other than agricultural land/ farm house/ plantation property to an NRI or an OCI.

By an NRI or an OCI

By way of inheritance

Permitted to acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property

- in accordance with the provisions of the foreign exchange law in force at the time of acquisition;
- from a person resident in India;
- transfer any immovable property in India to a person resident in India;
- transfer any immovable property other than agricultural land/ farm house/ plantation property to an NRI or an OCI.

Joint acquisition with the spouse

By non resident foreign citizen

- Not permitted to acquire immovable property in India

Spouse of NRI / OCI

A non resident foreign citizen spouse of a NRI / OCI is permitted to acquire one immovable property (other than agricultural land/ farm house/ plantation property), jointly with his/ her NRI/ OCI spouse provided:

- The consideration for transfer, shall be made out of funds received in India through banking channels by way of inward remittance from any place outside India or funds held in any non-resident account maintained in accordance with FEMA;
- The marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the acquisition of such property
- Non-resident spouse is not otherwise prohibited from such acquisition.
- No payment for any transfer of immovable property shall be made either by traveler's cheque or by foreign currency notes or by any other mode not specifically permitted;

by Long-Term Visa holders

A person being a citizen of Afghanistan, Bangladesh or Pakistan belonging to minority communities in those countries, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who is residing in India and has been granted a Long Term Visa (LTV) is permitted to purchase only one residential immovable property for self-occupation and only one immovable property for carrying out self-employment subject to the following conditions:

- Property should not be located in and around restricted/ protected areas notified by the Central Government and cantonment areas;
- Person submits a declaration to the district revenue authority about the location of the property
- Registration documents of the property should mention the nationality and the fact that such person is on LTV;
- Property may be attached/ confiscated in the event of individual's indulgence in anti-India activities;
- Copy of the documents of the purchased property shall be submitted to the Deputy Commissioner of Police (DCP)/ Foreigners Registration Office (FRO)/ Foreigners Regional Registration Office (FRRO) concerned and to the Ministry of Home Affairs (Foreigners Division);
- Such person shall be eligible to sell the property only after acquiring Indian citizenship. However, transfer of the property before acquiring Indian citizenship shall require prior approval of DCP/FRO/FRRO concerned.

A photograph of a desk setup. On the left, a small green fern-like plant is in a dark glass jar. A white lamp with a conical shade is lit, casting a warm glow. In the center, a laptop is open. The background is a plain, light-colored wall.

Thank you

In the event you need any further information or clarification. Please feel free to contact:

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About MHA Legal

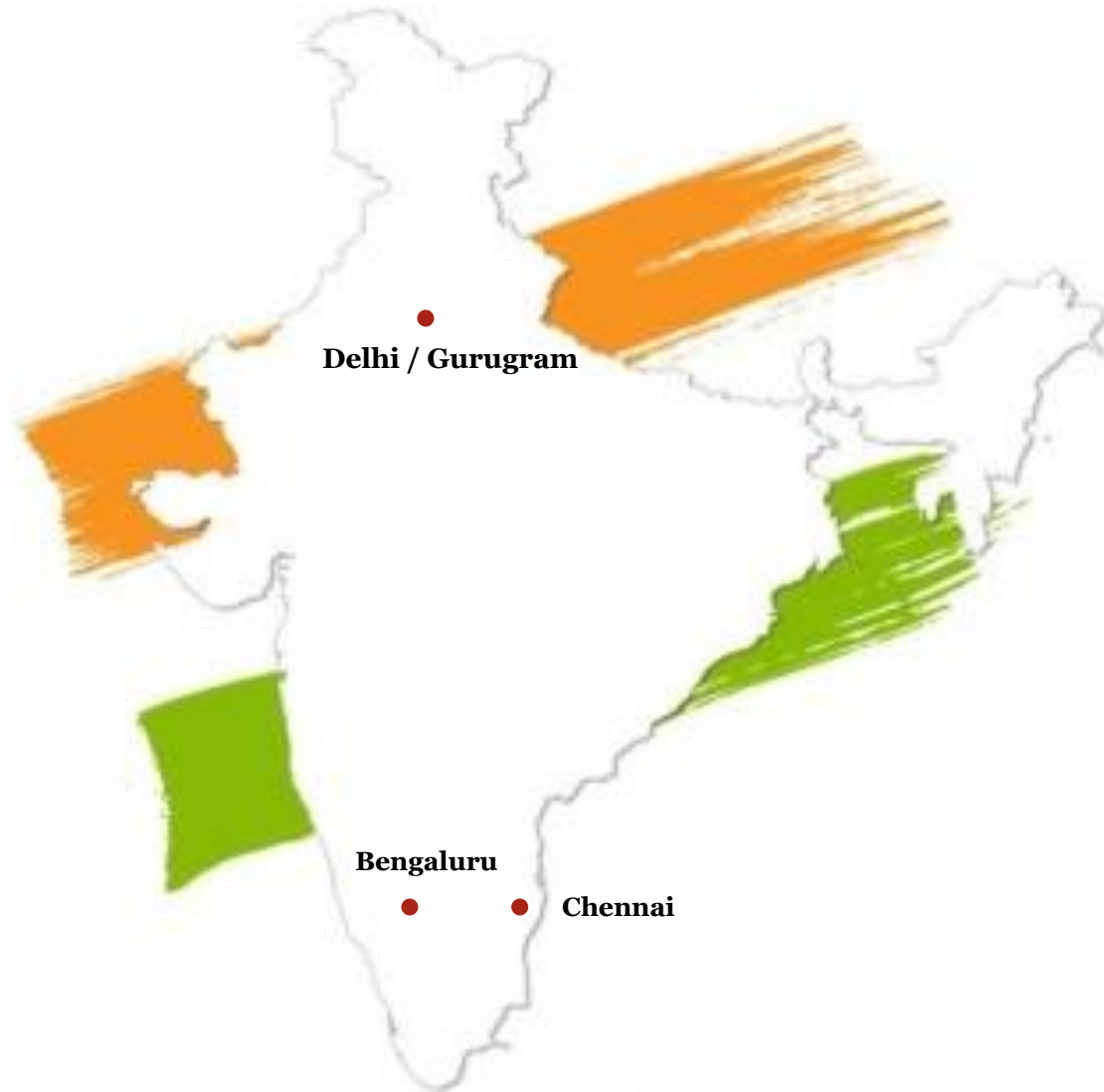
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Team members hold specializing in the areas of corporate and commercial laws, Foreign Direct Investment Policy of Government of India, Foreign Exchange Regulations, mergers and acquisitions, Taxation, real estate projects, foreign trade, international transactions, trademarks and patents, and environmental law.

MHA Legal has its offices in New Delhi, Gurugram, Bengaluru, Chennai and a network of correspondents covering all Indian States.

Office Locations



Thank you



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Passion, Integrity, Excellence**

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