

Senior Money



Wills

BHUPINDER SINGH

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A WILL FOR YOUR FORTUNES

A Will is an essential document for seniors to ensure bequests of their assets according to their wishes

Everybody is possibly aware of the famous legal wrangle in one of India's biggest industrial families after the patriarch died without leaving a Will. Little did he imagine that his sons would fight out their legal battle so publicly. But then there are millions of such cases in India involving celebrities, famous personalities, godmen as well high networth individuals (HNIs), where legal battles are fought and the litigations are under process across courts in India.

But that aside, there are also families of common people who suffer while claiming their rights through legal processes. Add to that the time and money

the litigants (the beneficiaries) have to spend—to prove their claim as heirs for want of a Will—and it just goes to show how important a Will is to pave a clear-cut succession line for your heirs.

Nevertheless, our approach to making a Will seems to be as good or bad as our approach to other things in life: 'No hurry, I will do it later' seems to be the

WILL YOUR WAY

■ **WHAT IS A WILL?** It is a legal declaration of your wishes or intentions which you desire to be performed after your death. It can be handwritten

■ **THE REQUIREMENTS.** The person making the Will has to be of sound mind and the Will should be made without any influence or pressure

■ **WHAT CAN A WILL CONTAIN.** You can distribute your property to your heirs according to your wish. You can also make a declaration to donate your body organs or entire body for medical research in the Will

■ **KEEP IN MIND.** It is advisable to appoint a friend or a family member as an executor. Also, have your Will signed by two witnesses, and include their name and address. Your children or their spouses or your grandchildren should not be witnesses

■ **REGISTRATION.** It is not mandatory to register a Will. But if you have properties (land or apartments), registration is advisable. But do so within four months of signing a Will

■ **SAFEKEEPING.** Make only one copy of your Will. You may keep the original copy of your Will in a bank

common refrain. But given that we are all mortals, a Will is important.

If you are nearing retirement or about to turn 60, you would naturally be anxious of what would happen to your wife, sons or daughters were you to leave something extra for one of your children. While you know they get along very well, there are chances that the moment your property comes into question because of a 'no Will situation', no one will know your true wishes and stories and guesses may lead to confusion and, consequently, long trips to law firms or even courts.

Thus, as a parent, it is important that you leave a Will distributing your for-

tune among your heirs according to your own wish. After that you can spend the rest of your life in peace.

Now that you have decided to write a Will, here are things you should know.

WILL BASICS

Technically, a Will is a legal declaration of your wishes or intentions which you desire to be performed after your death. Besides, to make a Will, you need to be of sound mind. You should also know the contents of the Will and, most importantly, should make the Will voluntarily without any influence.

Your Will will come into effect only after your death and you may change or even cancel and make a fresh Will during your lifetime. You may declare your intentions to distribute your property to anybody you choose to, including minors and people of unsound mind. You can make such declarations regarding properties moveable and immovable, which you own and which is including your Hindu Undivided Family (HUF) rights, donation of your body organs like eye, skin or even your entire body for medical research.

For a more workable solution, you may appoint the Will's executor. This can be your friend or a family member who will be responsible for distributing your properties as per your wishes.

Drafting a Will. Unless you are a Muslim, your Will must be in writing. Also note that there is no particular form of Will prescribed by law and it need not be on stamp paper. You can draft your Will on a plain sheet of paper. However, make sure it is of durable quality. You do not want your dear ones to find a disintegrating document of your Will!! Also, there is no rule that your Will has to be typed. You can draft a Will in your own handwriting. It is called a holograph and is valid in law.

Once you start drafting your Will, ensure that you mention that you are of sound mind and are making the Will voluntarily and without any undue influence. Also mention that it is your final Will and all previous Wills or declarations be treated as cancelled. Use clear and unambiguous language and avoid any conflict with rule of law.

Executors and witnesses. Appoint an executor and give details about each and every property. You may attach as schedule the details of all your properties. Once you make the Will, have it signed in your presence by two witnesses, and include their names and addresses. Beneficiaries (sons and daughters) or anyone related to them who stand to gain from your fortune (sons/daughters-in-law or grandchildren) should not be witnesses. It's best to have a doctor or a senior lawyer as a witness, but if that's not possible, get a doctor's certificate vouching your mental fitness nearest to the date of drafting the Will. Make sure to have only one copy of the original Will.

After you have signed your Will, you may register it within four months. While registration of a Will is not compulsory, if your properties include any immovable property like flat, land or agricultural land, you should register it to avoid any 'question on genuineness' by some jealous family member.

Registration will ensure that one copy of the Will is with the government so that in case your Will is lost or damaged, the beneficiaries can go by the government records. You may keep the original Will in your safe locker or you may give it to a bank as its custodian. Some such as State Bank of India (SBI) offer custodian service for documents.

Changes to a Will. If you wish to change a few wishes and grants in your Will, you may do so with an amendment known as a Codicil. You may also draft a new Will or cancel your existing Will. All of it is legally allowed. The law of Wills is contained in Part IV of the Indian Succession Act, 1925.

Wills: Other religions. Wills by Muslims is governed by the Muslim Personal Law. If you are a Muslim, you can make, revoke and modify your Will orally and you can bequeath only one-third of your property through Will, any excess of that has to be approved by your heirs. If you are a Parsi or a Christian, your Will shall be revoked immediately upon your marriage and you shall have to make a fresh one. □

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