

WILL

Let me start by stating that **WILL** is a document for which none of us are ever in hurry. It is too morbid for us to think of writing our WILL. The reasons are all known to us for such most unwise behavior. Some of the reasons are:-

1. Am I going to die tomorrow, for me to make WILL right now?
2. My children are always sensitive to my requirements, hence why to worry about WILL?
3. Making WILL means I am distrustful of my kith and kin in the eyes of the people.
4. In any case I have only one son, everything has to go to him. So why make my WILL?

We need to understand **necessity, importance, value** and **urgency** of making a WILL.

A WILL is a **legal declaration**, made by a person about his **intention** with respect to his **property**, which he **desires** to be carried out **after** his **death** and it is always **revocable**.

If I say a WILL is the simplest document one can make and in the same breath if I also say making a WILL is most complicate process I am not exaggerating.

Why to make WILL?

- You can provide for special needs of your family members such as for a handicapped child, widowed daughter, widowed sister, aged parents etc.
- You can provide for a relative who deserves help.
- You can reward a friend or servant who may have stood by you in your hard time.
- You may not want to give anything to your children who never cared for you, treated you with contempt and may be waiting for your death to usurp your hard earned property.
- You want to give to some charity.

Making WILL:-

- A person who is competent to contract i.e. who is a major and of sound mind can make WILL.
- WILL is made out of free will without any coercion or influence.
- A deaf, dumb or blind person can also make WILL.
- It should not have been obtained by fraud or importunity.
- It must be attested by two witnesses who need to remain present at the time of registration or notarization of WILL.
- The WILL is essentially a revocable declaration. Let me say if a declaration is not revocable it is not a WILL. It means the WILL can be changed or cancelled any time by you during your life time.
- The bequest may be conditional or it may depend on happening or not happening of a particular event.
- If any liability is attached to the property the beneficiary has to accept it with such liability else he may lose the bequest.
- You should have one or more Executors, preferably younger to you for administering the estate as per instructions in your WILL.
- You have to sign the WILL or put some mark on it for having made the WILL.
- You may also authorise some other person to sign on your WILL in your presence under your direction.
- A legatee under a will does not lose his legacy by attesting the WILL. (Other than Hindus will Lose the Legacy if witness the WILL)
- You should mention your Age, religion, community etc. in the WILL.
- It should mention that the WILL is the last one and also specifically state that previous WILL including CODICIL is revoked thereby.

- It is advisable to make WILL when one gets married or one has children or after divorce or children becoming major or and to revisit the WILL for appropriate changes on or after the above events.
- It is also advisable to revisit the WILL when any of the Executors or the Witnesses dies in your life time.
- You can appoint a legatee as executor.
- It is not necessary to give reasons for giving or not giving any properties to any of the legal heirs.
- A will cannot be challenged on the ground of unreason ability of a bequest.
- There **must be** at least two witnesses, preferably younger to you. They witness your signature to the WILL but they need not know what is written in the WILL.
- Even a minor can witness a WILL.
- It is advisable to mention in the WILL the name and details of the Scribe (person who writes your WILL) or the person who drafts your WILL and the address of the place where you Sign your WILL.
- A WILL does not require any Stamp Duty and can be written on plain paper.
- A WILL does not require compulsory registration.
- It can be registered or deposited in the office of Sub- Registrar during life time of the testator; there is no time limit for presentation of the WILL for registration or deposit.
- A WILL is perfectly legal if notarized, which is more convenient also. If need be the notary may be requested to visit your place for notarization.
- The attesting witnesses must go along with the testator for registration of the WILL or for its notarization.
- Registration or deposit of WILL may be useful to avoid its destruction, getting lost or stolen or being tempered with and to maintain secrecy of the WILL.

- Your WILL may be kept with your Chartered Accountant or Advocate or with banker or other person of great confidence for safe custody.

The note is a guide and need attention according to personal law of the person making WILL.

You may feel free to contact me on my email or postal address for clarifications, if any.