**DIY (Do it Yourself) Will template.**

**Why is it important to write a Will?**

A Will is one of the most important document that you will ever personally get involved in or even write yourself, because it allows you to:

1. Evaluate and list out all your assets and valuables;
2. Decide on and choose the person(s) who will receive what you own after your demise; and
3. Enable those who survive you to facilitate the transfer of ownership of the assets so left/ bequeathed by you without hassle.

If you pass away without having written a Will (in legal parlance, *dying intestate*), your assets will be distributed as per the applicable law of succession and not as per what you desired during your life time. This usually implies court interventions and approvals or legal cases usually involving disputes or acrimony between those claiming succession and may result in the breaking up of family relations.

**Guidelines for writing a Will**

1. Will making in India is very simple and typically can be a “Do It Yourself” (“**DIY**”) project. You don’t always require a lawyer to draft a Will especially if it is a Simple Individual Will; however, if you think you need legal advice to make a Will, please consult a qualified Lawyer. We can help you locate one.
2. You can make your Will in your own language but what is written in the Will by you must convey your intentions.
3. A Will is valid only if it has the testator’s (*i.e. you, the person making the Will*) signature and it is witnessed by two witnesses.
4. A Will does not need to be registered, but it is advisable to do so. An unregistered Will can be revoked at any time and you can make a fresh Will, but it must have the proper signature of the testator and two witnesses.
5. A supplement to a Will (usually modifying its terms) is called Codicil and it can be made with testator’s signature and witnessed by two witnesses.
6. Check if your intentions in the Will are consistent (for Example Mr Verma wrote in his will he wants to gift his house to A after his death but in a later part of the Will, Mr Verma states that all his immovable property will be gifted to B after his death. This is a clear conflict of intentions)
7. Anything left blank should be filled before the witnesses attest the Will.
8. If any moveable or immovable property is added to your assets, a new Will must be executed or a codicil must be added to the Will.

**Personal Details (Mandatory)**

In order to identify yourself correctly and completely and to avoid any ambiguity, please record the following correctly:

1. Your (i.e. the Testator’s) full name as recorded in a valid proof of identity such as Aadhar Card or Passport;
2. Your father’s full name as recorded in a valid proof of identity such as Aadhar Card or Passport;
3. Your residential address as recorded in a valid proof of residence such as Aadhar card/ Passport or Utility Bill;
4. Citizenship;
5. Wills made by minors are not legally valid; therefore, you have to record that you are an adult. You also need to state your date of Birth and age;
6. You need to record that the Will has been made by you while you are in possession of your full senses and that the Will has been made without any undue influence or coercion;
7. You need to record that the Will you are executing is your Last Will and Testament and that all previous Wills and Codicils stand/are hereby revoked by virtue of this Will.

**Details of Assets & Beneficiaries (Mandatory)**

1. Your Will should have a clause bequeathing (*which means leave a property to someone by a Will*) your property, whether immovable (like land and building) or immovable (like Cars, Bank Deposits, Shares, Mutual Fund units etc) to the beneficiary.
2. The following clauses should be included in your Will: -
3. A clause bequeathing of property to the members of your family or such other persons or Associations or Trusts etc (**Beneficiary**) with their full names, identification details etc.
4. In case of property jointly owned with another person, you should mention how your share in the property is to be distributed.
5. Whether income generated from property is intended by you to be shared among one or more of the Beneficiaries.
6. How your assets are to be distributed if one or more of the Beneficiaries named by you in your Will pass away before you do; for e.g. if the beneficiary was your wife or husband, the assets could then go to your children or any other person.
7. If you are bequeathing your assets/property to minors, it is necessary to also designate or name legal guardians/trustees for the property until such time they attain majority.

*Note: The person who raises your children is called a guardian. The person who looks after your children’s assets/money until they are old enough to handle their assets/money by themselves is referred to as the “Trustee”.*

1. You may also want to indicate how expenses for ceremonies after death or for execution of your Will or even repayment of liabilities are to be met from your assets; typically, a certain sum is set apart for such expenses and is mentioned in the Will.

**Signature (Mandatory)**

1. Please affix your signature or at least your initials on all the pages and full signature at the end of the Will and in the Schedules to the Will; please remember to mention the date on and place at which you have signed the Will.
2. The act of you signing your Will should be witnessed by a minimum of two witnesses. The witnesses should also initial on all the pages and affix full signature on the last page, after your signature. The witness/es should also mention their full name, as recorded in a valid proof of identity such as Aadhar Card or Passport, his/her father’s full name as recorded in a valid proof of identity such as Aadhar Card or Passport; residential address as recorded in a valid proof of residence such as Passport or Utility Bill, citizenship and the date on and place at which the signature was affixed.

**Executor’s Details (Optional)**

1. You may want to nominate a person to be the Executor of your Will. An Executor will implement your wishes as recorded in the Will after your demise. Usually, the beneficiary of the Will is nominated as the Executor; most married people choose their spouse as their first choice since he/she knows most about their property and generally this person is the Beneficiary of the Will. However, a third person like a trusted friend or relative, an Advocate/Solicitor etc., can also be nominated as an Executor.
2. The Executor’s full name as recorded along with a valid proof of his/ her identity such as Aadhar Card or Passport, age, his/her father’s full name as recorded in a valid proof of identity such as Aadhar Card or Passport, residential address as recorded in a valid proof of residence such as Passport or Utility Bill and relationship with the testator, should be clearly mentioned in the Will.
3. It is prudent to provide for an alternative executor, if the one named in your Will were to pass away before you do. Such a change can be made through a Codicil.
4. If no Executor is named by you in the Will, at the time of grant of probate, a court may consider an Executor as being appointed by implication; for e.g. the surviving spouse named as a beneficiary will be the executor or a guardian or trustee named in the Will may be considered as the Executor.

**Registration of Will (Optional)**

1. In India, it is not compulsory to register a Will. A Will is not a compulsorily registerable document under Section 17 of the Registration Act, 1908.
2. However, under Section 18 (e) of the Registration Act, 1908, a testator can choose to register a Will with the relevant Registrar/Sub-Registrar of Assurances, which is usually the same office where property documents are also registered.
3. A registered Will can be revoked through a subsequent unregistered Will, of course, the subsequent Will needs to contain details of the Will being revoked.

**Stamp Duty**

No stamp duty is payable in respect of a Will; therefore, there is no need to write a Will on a Stamp Paper (Judicial or Non Judicial).

**Things to keep in mind while choosing the witness for the Will.**

Both the witnesses should be adults who are above 18 years of age. When you choose the witnesses, you must keep in mind that they should survive you as they may need to testify regarding the validity of the Will after your death in order to probate the Will, if required. It is important to ensure that your witness does not have any vested interest or conflicts.

**Probate of the Will**

A probate is the court process by which the validity of the Will (including whether the Will is the last one) is tested. When a court grants probate, the court certifies the Will and also grants a Letter of Administration to the Executor. This Letter of Administration authorises the Executor to manage the estate of the deceased person as per the terms of the Will.

**SIMPLE WILL (INDIVIDUAL)**

*Please use the format as shown below, to customise your will.*

|  |  |
| --- | --- |
| 1. | I, Mr [.], aged [.], [HINDU/PARSI/CHRISTIAN/SIKH], [INDIAN] son/daughter of Mr [.], resident of [Address.] holding Aadhaar Card No.[.] do hereby revoke all my previous Wills (or) Codicils and declare that this is my last Will, which I make on this, the [1st] day of [JANUARY], [2021].  I declare that I was born on [JANUARY 1, 1969] and that I am in good health and I possess a sound mind.  This Will is made by me without any persuasion or coercion and out of my own independent decision and shall be effective after my death. |
| 2. | I hereby appoint my [WIFE/HUSBAND] Mrs [Name], adult, aged [.], [INDIAN] son/daughter of [Name], resident of [address] holding Aadhaar Card No.[.] to be the **Executor** of this Will.  In the event that Mrs [Name] were to predecease me, then, my [brother] Mr. [Name] adult, aged [.], [INDIAN] son/daughter of Mr. [Name] resident of [Address] holding Aadhaar Card No.[.]will be the Executor of this Will. |
| 3. | I bequeath the following assets to my [WIFE/HUSBAND] Mrs [Name], adult, aged [.], [INDIAN] daughter of [Name], resident of [.Address], holding Aadhaar Card No.[.]  1. 50% rights held by me in Flat No--- Address,  2. Bank balance in my Savings Bank A/c No. [.] with [ BANK Address]  3. The contents of bank locker no [.], with [BANK Address]  4. Residential Plot no [.] located at [Address]  5. My [TOYOTA COROLLA] Car with registration no [MH 47 AB 1234]  6. 25,340 shares of [Name of the company] held by me in Beneficiary Account No. [3420670] with [ICICI SECURITIES LIMITED  7. Any other asset not mentioned in this Will but of which I am the owner.  All the aforesaid assets and properties are owned solely by me.  My [WIFE/HUSBAND], Mr./Ms./Mrs.[Name] will have the absolute right to sell or pledge or mortgage or bequeath or transfer any of the said moveable and/or immoveable assets/properties bequeathed to her/him in my Will at any time during her/his life at her/his own will, and without recourse to approval or consent or permission from anyone. |
| 4. | If my [WIFE/HUSBAND], Mrs.[Name] were to predecease me, I bequeath my assets in the following manner:  A. To my [DAUGHTER] Miss [Name], aged [22], [INDIAN], Resident of [Address], holding Aadhar Card No. [3599 1280 9875 6754]:  1. The contents of bank locker no [L-213], with [Bank Address]  2. Residential Plot no [A-901] located at [Address]  3. 25,340 shares of [Name of the company] held by me in Beneficiary Account No. [3420670] with [ICICI SECURITIES LIMITED]  B. To my [SON] Mr [Name], aged [.], [INDIAN] Resident of [Address], holding Aadhar Card No. [.]  1. 50% rights held by me in Flat Address  2. Bank balance in my Savings Bank A/c No. [.] with [Bank Name]  3. My [TOYOTA COROLLA] Car with registration no [NUMBER]  4. 7. Any other asset not mentioned in this Will but of which I am the owner.  All the above assets and properties are owned solely by me.  If your daughter or son is a minor, you can use the following words after the above:  “*I appoint my Wife/Husband Mrs/Mr [NAME], Resident of [ADDRESS], holding [AADHAR CARD NO./PASSPORT NO] as the Guardian of my daughter/son [NAME] All the above assets and properties are owned solely by me*”. |
| 5. | Signature of Testator  [Name]  Address  Aadhaar Card No [.]  [Place]  [Date]  (*Please affix your initials on all pages if the WILL has many pages*) | |
| 6 | We hereby attest that this Will has been signed by Mr [Name], aged [.], [HINDU], [INDIAN] daughter/son of Mr [Name, resident of [Address] holding Aadhaar Card No.[.] as his last Will at [Place] on [Date] in the joint presence of himself/herself and us.  The testator is in sound mind and made this Will without any coercion.  *Name of the Witness(1)*  *Signature*  *Address:*  Aadhaar Card No:  Place :  Date:  *Name of the Witness(2)*  *Signature*  *Address:*  Aadhaar Card No:  Place :  Date: | |

***Notes:***

1. *The above format is suitable for all Indian religions except Islam; for Muslims, Sharia applies and there are restrictions on bequeathing property under that law.*
2. *The above does not constitute a legal advice and Will & More does not take responsibility for the contents of the will made by you.*
3. *If you need the assistance of a lawyer in preparing your Will, please write to us at* [*assistance@willandmore.com*](mailto:assistance@willandmore.com)