**Guidelines for making WILLS**

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; 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 by you must convey your intentions.
3. A Will is valid only if it has the Testator’s 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 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 that he wants to gift his house to A after his death and 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 should 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. In order to avoid confusion, it is advisable to list out all your properties in a Schedule to the Will. The format of the Will provided by us below includes a suggested schedule.
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 document 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 the Executor 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 beneficiary 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 witness 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 for e.g. the beneficiary in a Will should not be a witness to your Will.

**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 authorizes the Executor to manage the estate of the deceased person as per the terms of the Will.

**ELABORATE WILL FORMAT I**

*In this format, the person to whom the assets are bequeathed will have absolute right to sell, mortgage, pledge or otherwise, alienate the said assets during his/her lifetime without the approval of any of the legal heirs of the Testator. His/ her interest in the said assets will pass on to him/her without any conditions and he/she is free to Will the said assets to anyone else.*

**Last Will and testament of Mr./Ms. [NAME] Dated [DATE]**

1. I, Mr/ Ms. [NAME], aged [AGE] years, [INDIAN], [Hindu/ Sikh/Christian] by religion holding Aadhar Card No. [NUMBER] s/d/of [FATHER’s NAME] residing at [ADDRESS] and, a [.] by occupation/Retired person do make this my last will and testament.
2. I have previously not made any Will or other testamentary document, but if any made, I hereby revoke all previous wills and codicils, if any, and declare this to be my last and testament.

OR

I have previously made a Will on [date] and by this new Will dated [today], I am rescinding all my previous Wills which are now rendered null and void and cancelled/withdrawn.

1. I appoint my friend and professional partner/ lawyer/ [relative] Mr/Mrs. [NAME], aged [AGE] years, [INDIAN], [Hindu/ Sikh/Christian] by religion holding Aadhar Card No. [NUMBER] s/d/of [FATHER’s NAME] residing at [ADDRESS] as the Executor of this Will and the Trustee of my estate/ assets till the distribution of my assets are completed as per the contents of this Will.
2. My personal family consists of my wife Mrs. [.], my daughters [.] and[.], and sons [.] and [,], (none of them being minors) (or if minors state their ages)
3. My property consists of
4. Landed property in [.] with one double storied building consisting of three houses, one in the ground floor and two flats in the first floor with door numbers [.], [.], and [.] (state full address including street name and PIN Code)of the Corporation of [.] acquired by me through inheritance from my mother/ father vide deed No.[.] in plot bearing Sy No[.]
5. Landed property in [.] (give full details of the city) with the following details;

Residential site bearing No.[.] of [ …Sq yards], situated in [.] District and purchased by me on [dd/mm/yyyy.] vide purchase/ sale deed No. 13647/9495.

1. Flat in [.] with the following details:

Flat No. [.] jointly owned by me and my [.]

1. Bank deposits, both Fixed deposits and savings bank accounts with:

([.] Bank , [.] branch, [Place] that are in my individual name as well as jointly with my wife [.]in first name or Second name on the deposit receipts with one of my children as Nominees as per the following chart.)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Sl No | Bank name | Branch Address | Deposit No | Amount | Deposit jointly with |
| 1 |  |  |  |  |  |
| 2 |  |  |  |  |  |
| 3 |  |  |  |  |  |
| 4 |  |  |  |  |  |
| 5 |  |  |  |  |  |
| 6 |  |  |  |  |  |

1. Bonds and shares:
2. In physical form:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Sl No | Issuer Co/ Govt Name | Address | Bond No | Amount | Deposit jointly with | Maturity date |
| 1 |  |  |  |  |  |  |
| 2 |  |  |  |  |  |  |
| 3 |  |  |  |  |  |  |
| 4 |  |  |  |  |  |  |
| 5 |  |  |  |  |  |  |
| 6 |  |  |  |  |  |  |

1. Demated Shares and Bonds : Deposited with Depository Participant M/s [.] , [.address] under Demat A/c No. [.]
2. Safe deposit lockers jointly with my wife [.] at:
3. Locker No [.] at [.] bank, [.] branch, [place/ city/ town]
4. Locker No [.] at [.] bank, [.] branch, [place/ city/ town]
5. Locker No [.] at [.] bank, [.] branch, [place/ city/ town]
6. LIC/ Life policies:
7. With [.] Insurance Co, [address. of branch office] Policy bearing No[.] dated [.] for a sum assured of Rs.[.] maturing on [.]
8. With [.] Insurance Co, [address.] bearing No[.] dated [.] Policy for a sum assured of Rs.[.] maturing on [.]
9. With [.] Insurance Co, [address.] bearing No[.] dated [.] for a sum assured of Rs.[.] maturing on [.]
10. Pension funds / policies/ Pension received from and with certain lumpsum payments after my death or continuance of the monthly pension (annuities) to my legal heirs:
11. Pension Paying Authority / Co [name] bearing account No [.] The monthly/ quarterly pension amounts being credited to my bank account No. [.] at [.] bank, [branch, place]
12. Pension Paying Authority / Co [name] bearing account No [.] The monthly/ quarterly pension amounts being credited to my bank account No. [.] at [.] bank, [branch, place]
13. Pension Paying Authority / Co [name] bearing account No [.] The monthly/ quarterly pension amounts being credited to my bank account No. [.] at [.] bank, [branch, place]
14. Gold and /or other precious metal ornaments or bars/sheets placed with the bank lockers as stated above or within my residential premises;
15. My motor car bearing registration No. [.] of [.] model.
16. I bequeath all my property as stated above and any other property or assets that I may acquire hence forth in whatever form existing at the time of my death to my husband/wife Mr(s). [NAME]. Accordingly, my husband/wife [.] will have the absolute right to sell or pledge or mortgage, bequeath or transfer any of the said moveable and/or immoveable assets/properties at any time during her life at her own will and without recourse to or approval or consent or permission of anyone including the Executors and/or Trustees.
17. My Executors and trustees shall, after spending the necessary moneys for the management for the said property out of the income thereof, pay the net income or effect the transfer of all the aforesaid assets standing in my name including all the other assets that I own and possess which are not listed in this Will to my wife and the same will belong to her absolutely without liability to account for the same. My executors and trustees will also spend out of the corpus of my estate, such amounts as may be required by my wife for medical expenses or for pilgrimage. But my Executors and Trustees will not be entitled to sell my immovable property above mentioned or mortgage the same.
18. If my husband/wife predeceases me, then on my death, all my assets and estates, rights and entitlements then existing whether mentioned in this Will or not, will be bequeathed to my/our children (1), (2) etc in the following manner:

OR

Upon my demise, all the estates and assets will be bequeathed as follows and to:

1. Real estate property as in 3 (a) above will be bequeathed to my husband/wife / son/ daughter [name]
2. Real estate property as in 3 (a) above will be bequeathed to my husband/wife / son/ daughter [name]
3. Real estate property as in 3 (a) above will be bequeathed to my husband/wife / son/ daughter [name]
4. The bank deposits, both fixed deposits as well as the balances in the operative savings bank accounts, bonds listed and unlisted shares, vehicles and all investments including those not covered in this Will shall be divided in equal share (value wise) and the Executors / trustees for the time being of the said estates under this Will shall transfer the same among our children [names] through proper documents and arrange for their registration and transfer in the following manner:
5. Daughter (name) will receive [.] % of the value of my financial assets/ investments
6. Son (name) will receive [.] % of the value of my financial assets/ investments
7. Son (name) will receive [.] % of the value of my financial assets/ investments

iv. Others (name) will receive [.] % of the value of my financial assets/ investments

(decision to me made as may be required)

1. The contents of the Bank Lockers wherever situated will also be divided equally between my children [names].
2. My Executors shall obtain probate of this Will from a Competent Court/Statutory Authority, if required in law and shall pay all the probate duty and other expenses required for such probate and also pay as first charge all my other liabilities by way of taxes or otherwise howsoever. Alternately, the beneficiaries i.e. [my wife and / or my children] will jointly meet the probation and execution expenses on their own
3. Till the completion of the administration of the said property by realisation thereof and payment of all liabilities, the Executors and/or Trustees, shall hold the property in trust.
4. I have made this Will out of my free will and while I am in sound health and in good understanding and in witness thereof, I have put my signature hereunder in the presence of witnesses this [DATE] day of [MONTH] of [YEAR]

Signed by the within named testator Mr.

Dated:

Place:

in the presence of witnesses, who in his presence and at his request of each other have out their signatures as witnesses hereunder

1.

2.

**ELABORATE WILL FORMAT II**

*In this format of a Will, the beneficiary will only have a* ***“Life Interest”*** *in the assets/ properties; he/she cannot alienate (i.e.; sell, mortgage, pledge, transfer or otherwise dispose of any of the assets including any further bequeathing) during his/ her life time BUT he/she can however enjoy the property and its profits/ interest earned and rentals etc; and he/she has to maintain and hold /manage the assets/ property for subsequent vesting after his/ her death to the beneficiaries as named and stipulated in the original Will.*

**Last Will and testament of Mr./Ms. [NAME] Dated [DATE]**

1. I, Mr/ Ms. [NAME], aged [AGE] years, [INDIAN], [Hindu/ Sikh/Christian] by religion holding Aadhar Card No. [NUMBER] s/d/of [FATHER’s NAME] residing at [ADDRESS] and, a [.] by occupation/Retired person do make this my last will and testament.
2. I have previously not made any Will or other testamentary document, but if any made, I hereby revoke all previous wills and codicils, if any, and declare this to be my last and testament.

OR

I have previously made a Will on [date] and by this new Will dated [today], I am rescinding all my previous Wills which are now rendered null and void and cancelled/withdrawn.

1. I appoint my friend and professional partner/ lawyer/ [relative] Mr/Mrs. [NAME], aged [AGE] years, [INDIAN], [Hindu/ Sikh/Christian] by religion holding Aadhar Card No. [NUMBER] s/d/of [FATHER’s NAME] residing at [ADDRESS] as the Executor of this Will and the Trustee of my estate/ assets till the distribution of my assets are completed as per the contents of this Will.
2. My personal family consists of my wife Mrs. [.], my daughters [.] and[.], and sons [.] and [,], (none of them being minors) (or if minors state their ages)
3. My property consists of
4. Landed property in [.] with one double storied building consisting of three houses, one in the ground floor and two flats in the first floor with door numbers [.], [.], and [.] (state full address including street name and PIN Code)of the Corporation of [.] acquired by me through inheritance from my mother/ father vide deed No.[.] in plot bearing Sy No[.]
5. Landed property in [.] (give full details of the city) with the following details;

Residential site bearing No.[.] of [ …Sq yards], situated in [.] District and purchased by me on [dd/mm/yyyy.] vide purchase/ sale deed No. 13647/9495.

1. Flat in [.] with the following details:

Flat No. [.] jointly owned by me and my [.]

1. Bank deposits, both Fixed deposits and savings bank accounts with:

([.] Bank , [.] branch, [Place] that are in my individual name as well as jointly with my wife [.]in first name or Second name on the deposit receipts with one of my children as Nominees as per the following chart.)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Sl. No | Bank name | Branch Address | Deposit No | Amount | Deposit jointly with |
| 1 |  |  |  |  |  |
| 2 |  |  |  |  |  |
| 3 |  |  |  |  |  |
| 4 |  |  |  |  |  |
| 5 |  |  |  |  |  |
| 6 |  |  |  |  |  |

1. Bonds and shares:
2. In physical form:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Sl No | Issuer Co/ Govt Name | Address | Bond No | Amount | Deposit jointly with | Maturity date |
| 1 |  |  |  |  |  |  |
| 2 |  |  |  |  |  |  |
| 3 |  |  |  |  |  |  |
| 4 |  |  |  |  |  |  |
| 5 |  |  |  |  |  |  |
| 6 |  |  |  |  |  |  |

1. Demated Shares and Bonds : Deposited with Depository Participant M/s [.] , [.address] under Demat A/c No. [.]
2. Safe deposit lockers jointly with my wife [.] at:
3. Locker No [.] at [.] bank, [.] branch, [place/ city/ town]
4. Locker No [.] at [.] bank, [.] branch, [place/ city/ town]
5. Locker No [.] at [.] bank, [.] branch, [place/ city/ town]
6. LIC/ Life policies:
7. With [.] Insurance Co, [address. of branch office] Policy bearing No[.] dated [.] for a sum assured of Rs.[.] maturing on [.]
8. With [.] Insurance Co, [address.] bearing No[.] dated [.] Policy for a sum assured of Rs.[.] maturing on [.]
9. With [.] Insurance Co, [address.] bearing No[.] dated [.] for a sum assured of Rs.[.] maturing on [.]
10. Pension funds / policies/ Pension received from and with certain lumpsum payments after my death or continuance of the monthly pension (annuities) to my legal heirs:
11. Pension Paying Authority / Co [name] bearing account No [.] The monthly/ quarterly pension amounts being credited to my bank account No. [.] at [.] bank, [branch, place]
12. Pension Paying Authority / Co [name] bearing account No [.] The monthly/ quarterly pension amounts being credited to my bank account No. [.] at [.] bank, [branch, place]
13. Pension Paying Authority / Co [name] bearing account No [.] The monthly/ quarterly pension amounts being credited to my bank account No. [.] at [.] bank, [branch, place]
14. Gold and /or other precious metal ornaments or bars/sheets placed with the bank lockers as stated above or within my residential premises;
15. My motor car bearing registration No. [.] of [.] model.
16. I bequeath all my property as stated above and any other property or assets that I may acquire hence forth in whatever form existing at the time of my death to my wife Mrs. [.] for her s lifetime and till her death as hereinafter provided.
17. My Executors and trustees shall, after spending the necessary moneys for the management for the said property out of the income thereof, pay the net income or effect the transfer of all the aforesaid assets standing in my name including all the other assets that I own and possess which are not listed in this Will to my wife and the same will belong to her absolutely without liability to account for the same. My executors and trustees will also spend out the corpus of my estate such amounts as may be required by my wife for medical expenses or for pilgrimage. But my Executors and Trustees will not be entitled to sell my immovable property above mentioned or mortgage the same. My wife [.] however, will have the absolute right to sell or pledge or mortgage, bequeath or transfer any of the said immoveable properties at any time during her life at her own will and without recourse to or approval or consent or permission of anyone including the Executors and/or Trustees.
18. On the death of my wife, and/or if she predeceases me then on my death, all my assets and estates, rights and entitlements then existing whether mentioned in this Will or not, will belong to my children (1), (2) etc in the following manner:

OR

Upon my demise, all the estates and assets will be bequeathed as follows and to:

1. Real estate property as in 3 (a) above will be bequeathed to my husband/wife / son/ daughter [name]
2. Real estate property as in 3 (a) above will be bequeathed to my husband/wife / son/ daughter [name]
3. Real estate property as in 3 (a) above will be bequeathed to my husband/wife / son/ daughter [name]
4. The bank deposits, both fixed deposits as well as the balances in the operative savings bank accounts, bonds listed and unlisted shares, vehicles and all investments including those not covered in this Will shall be divided in equal share (value wise) and the Executers / trustees for the time being of the said estates under this Will shall transfer the same among my husband/ wife/ our children [names] through proper documents and arrange for their registration and transfer.
5. The contents of the Bank Lockers wherever situated will also be divided equally between my husband/ wife/ our children [names].
6. My executors shall obtain probate of this Will from a Competent Court, if required in law and shall pay all the probate duty and other expenses required for such probate and also pay as first charge all my other liabilities by way of taxes or otherwise howsoever. Alternately, my wife and / or my children will jointly meet the probation and execution expenses on their own
7. Till the completion of the administration of the said property by realisation thereof and payment of all liabilities the Executors and/or Trustees, shall hold the property on trust hereby created.
8. I have made this will out of my free will and while I am in sound health and in good understanding and in witness thereof, I have put my signature hereunder in the presence of witnesses this [ ….] day of […] 20[.]

Signed by the within named testator Mr.

Dated:

Place:

in the presence of witnesses, who in his presence and at his request of each other have out their signatures as witnesses hereunder

1.

2.