

LIFE AFTER DEATH*By*

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As students of English Grammar, we are familiar with the story of a hapless man who found himself at the bottom of a well and could not be rescued by his wrong use of the verbs will and shall. The story goes that a man accidentally fell into a deep well and was yelling for help. He cried out “I will be drowned and nobody shall help me” instead of saying “I shall be drowned and nobody will help me”. Those who heard his cries thought that he was determined to be drowned and would refuse any help. So no one went to his rescue.

The proper use of will and shall is expressed in the following rime.

In the first person simply shall foretells;

In will a threat or else a promise dwells;

Shall in the second and the third does threat;

Will simply then foretells the future fate.

Let us leave the ‘will’ in the grammar books to grammarians and turn our attention to the legal will *i.e.* will in legal parlance which means the testamentary statement of a person regarding disposition of his/her property after his/her death.

There are several types of wills namely inofficious wills, holograph wills, nuncupatory wills, mystic wills, privileged wills, parliamentary will *etc.*

Irrespective of its nomenclature, a will comes into operation only after the demise of the testator or testatrix. During his/her

lifetime, it will lie in a state of suspended animation or in hibernation. The executant breathes life into the will and breaths his last. The moment the person ceases to be alive and stops kicking, the little piece of paper called the will, becomes live and starts kicking up a row.

During my long practice of almost half a century, I have conducted some cases relating to wills. It was the Land Reforms Primary Tribunal. I appeared for the declarant. His chief-examination by me and cross-examination by the Authorised Officer were over. The declarant thought it wise to “pass from nature to eternity”. I filed the vakalat on behalf of his only son along with the will of the deceased and the LR petition. After the procedural formalities were over I proceeded to examine the son. I showed him the will and asked him whether it was executed by his late father. He nodded assent. At that stage, the Presiding Officer (RDO Cadre) asked me how a dead person could execute a will. I said that he executed it during his lifetime. “If really that is so, what prevented him from filing it during his evidence. So it means that it was forged after his death”; the P.O. triumphantly said. Then I briefly explained the basic principles about the law of wills.

In the end I felt that I could successfully dispel his doubts. But that is not germane for the present purpose.

A senior lawyer of sixty years standing at the bar was on his death bed – Family doctors gave up hope. All the kith and kin were informed and they all came. They

were in tears and had their fears and hopes. It is the hoary custom to pour holy Tulasi water into the mouth of the moribund man or woman to serve as a step-in-aid to ensure salvation. Accordingly the holy water was poured into the dying lawyer's mouth. An elderly relation of his asked him to utter the holy name of the supreme lord 'Parameswara'. The senior advocate out of force of sixty years practice, loudly said "Pray time Pray time". Then another relation of his suggested an easy word "Narayana". The old man with a glow on his face said "Not ready. Not ready". That is why it is said that old habits die hard.

Sometimes it happens the old man with a strong will power survives his 'will' defying death and belying the "legitimate expectations" of his near and dear.

Let me conclude this essay by quoting the will of an American stock broker.

"To my wife, I leave her lover and the knowledge that I was not a fool she thought I was. To my son I leave the pleasure of earning. For twenty five years he thought the pleasure was mine. He was mistaken. To my daughter I leave one lakh dollars. She will need it. The only good piece of business her husband ever did was to marry her. To my valet I leave the clothes he has been stealing from me regularly for ten years as also the furcoat he wore last winter while I was in palm beach. To my chauffeur I leave my cars. He almost ruined them and I want him to have the satisfaction of finishing the job. To my partner I leave the suggestion to take some other clever man in with him at once, if he expects to do any business."

There is much truth in the old saying "Where there is a will, there is a way (to the Court).

DIVORCE LAW IN INDIA AND ENGLAND

By

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Marriage and divorce are significant Social Institutions. They are the obverse and reverse of the same coin. Mutual love, affection, mutual faith and understanding are the basic tenets of successful marriage. Fidelity on the part of husband and chastity on the part of wife are essential to have happy harmonious conjugal life. Any deviation from these basic principles leads to mutual bickering between the two which may end up in dissolution of marriage. Easy divorce practice amongst Hindus is the result of the influence of Western culture and civilization. Modernization and

industrialization have brought a sea change in the outlook and attitude of modern couples. Sastric Law ensures stability of marriage and modern Hindu Law has introduced easy divorce due to altered conditions of the Society. In the same way traditional English Law never encouraged easy divorce. It is only in the modern English Society coming under the influence of Westernisation has brought about materialistic culture and outlook amongst the people in England. English boys and girls are free to choose their life partners according to their whims