



MAKING A WILL: IMPORTANCE AND PROCESS

PRESENTED BY
RUPENDRA K. PORWAL
FCS, LL.M.(UNIVERSITY OF MANCHESTER, UK)
rupendraporwal@rallymarklegal.com
M-+91 9838597775
www.rallymarklegal.com

WHAT IS WILL?

Will is a legal document which states the intention of will maker (“Testator”) that how his wealth ought to be distributed between/among the family members and other parties (“Beneficiaries”) after his death.

- A Will may include:
 - Any property such as flats, jewelry, land, houses, cars, cash, clothing, furniture and other things of valuable nature.
 - Obligations and rights associated with the property such as lease rights of the property.
 - Any property held in foreign countries.

WHY THERE IS A NEED OF A WILL?

- It enables the Testator to transfer his wealth in favour of the persons whom he chooses to be bestowed with his wealth after his death.
- It ensures that after the death of the Testator, the wealth is distributed between/among the Beneficiaries without disputes.
- It enables the Testator to decide the quantum and manner of distribution of his wealth between/among the Beneficiaries .
- It enables the Testator to assign his responsibilities to his trusted person after his death. For Ex. Appointing a guardian to take care of minor children if neither of parents survive.

CONSEQUENCES OF NOT MAKING A WILL

- **In absence of a Will, if a person dies:**
 - **The wealth shall be distributed between/among the legal heirs according to the prevailing laws of inheritance, which must not have been intended by the Testator.**
 - **The consolidation of the assets becomes very difficult and heirs have to search the heavens of papers to know the deceased's tangible and intangible assets.**
 - **Some of the financial transaction may not be located because the bills and receipts are delivered online and no other tangible proofs are provided.**

- **The succession of property is governed by complex laws of inheritance, religious personal laws and applicable customs. The laws also differs between men and women.**
- **The legal heirs will find it very difficult to get Testators' accounts, investments and holdings transferred in their names owing to administrative paperwork and time consuming process.**

WHO CAN MAKE A WILL & TIMING OF THE WILL?

- **Any person who is major and has sound mind can make a Will;**
- **There is no specific right or wrong age to write a Will. As soon as an individual believes that he has specific thoughts on how his wealth is to be distributed between/among the Beneficiaries and which is different from prevailing succession laws, he should consider a Will.**
- **Even a person who is young and currently possess limited assets, he can write a Will stating that whatever assets accumulated up to the time of his death ought to be passed on to the Beneficiaries according to the specified ratio.**

IMPORTANT POINTS TO BE KEPT IN MIND BEFORE MAKING A WILL

- **Prepare a list of all moveable and immoveable assets;**
- **Prepare a list containing names of Beneficiaries;**
- **Decide the share of each Beneficiary in the wealth;**
- **Also make note of rights and obligations associated with particular assets;**
- **Appoint a trusted person as an executor who will be responsible for distribution of wealth as per the Will;**
- **Select a good lawyer for consultation and drafting of your Will;**

- Requirement of signatures of two witnesses who should be other than the beneficiaries;
- As the law mandates that only a mentally sound person can write a will, the Testator can attach a certificate from a doctor stating that he was in good health and sound mind while making the Will. In order to alleviate any risk, the Testator may request the doctor to sign the Will as a witness.

IS WILL REQUIRED TO BE REGISTERED?

- **Registration of Will is not compulsory. It is optional for the Testator to register the Will.**
- **However it is recommended that Testator gets the Will registered with the office of Sub- Registrar.**
- **A registered Will is more authentic and difficult to dispute its genuineness.**

AMENDMENTS OR WRITING OF A NEW WILL

- Will can be amended as many times as Testator wants as per changing dynamics of the family and his relationship with Beneficiaries or when new assets are acquired or old one are disposed off.
- Minor changes in the will can be made through a supplementary statement, known as a Codicil. If Testator needs to make major changes in the Will, it is suggested to create a new one.
- If the Will is not registered, destroying the old one and writing a fresh Will is all that Testator is required to do to revise it. Make sure that the Will clearly mentions the date of creation. The last Will supersedes all earlier ones.
- If the previous Will is registered, ensure that Codicil or new Will is registered.

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OUR OFFICES:

LUCKNOW OFFICE

Mr. Rupendra K Porwal

4th Floor, Premier Car Sales Building
Shahnajaf Road, Lucknow- 226001

E Mail: rupendra.porwal@relintegral.com

Mob. No.+91- 98385 97775 , 80520 45000

JAIPUR OFFICE

Mr. Nitin Sethi

905, Sethi House,
Meer Bakshi Ka Mohalla,
Panno Ks Dariba ,Jaipur - 302002

Email: nitin.sethi@relintegral.com

Mob. No. +91 9414078378

PUNE OFFICE

Ms. Archana Rathi

K3, 24, Gajamukha,
Aditya Nakova Enclave
Sinhagd Road ,Opp. Big Bazar
Pune- 411030

E-MAIL : archana.rathi@relintegral.com

Mob. No. +91 9822054190

INTERNATIONAL REPRESENTATIVE OFFICE:

LONDON OFFICE

Mr. Ajay Agrawal

13 St Mary Street London,
U.K. SE18 5AN

Email: ajay.agrawal@relintegral.com

Mob. No. +44 (79) 5821 9276

RALLYMARK LEGAL,

ADVOCATES & LEGAL CONSULTANTS

**4th Floor, Premier Car Sales Building
(Opp. St. Francis College) Shahnajaf Road,
Lucknow- 226001-India**

A corporate legal firm

Visit for further details:

www.rallymarklegal.com



**In case of any query/clarification,
please do write to us at**

**porwal_acs@yahoo.com or
rupendraporwal@rallymarklegal.com**

PHONE : + 91- 522-3075100
MOBILE : + 91- 80520 45000

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