

Types of Wills & Requirements of a Valid Will

DIFFERENCE BETWEEN TESTAMENTARY SUCCESSION AND INTESTATE



INTESTATE



TESTAMENTARY SUCCESSION

FOUR IMPORTANT PEOPLE IN A WILL

- TESTATOR : Who Writes a will
- BENEFICIARY : Who are the beneficiaries in the will
- EXECUTOR : An **executor** is a person/institution who is the legal representative, named in a **will** or implied as such, to carry out the process of the distribution of the assets of the testator.
- Witness: Every legal will should have two witness undersigned

What's the minimum age for writing a will

18

WITH A SOUND MIND

Three Important Declarations

- you are revoking all earlier wills.
- you are of sound mind.
- you are not making the will under any undue pressure.

**LAST WILL AND TESTAMENT
of**

(Full Legal Names)

(Identification / Social Security Number/s)

(Address)

1. Declaration

I hereby declare that this is my last will and testament and that I hereby revoke, cancel and annul all wills and codicils previously made by me either jointly or severally. I declare that I am of legal age to make this will and of sound mind and that this last will and testament expresses my wishes without undue influence or duress.

2. Appointment of Executors

2.1. I hereby nominate, constitute and appoint _____ as Executor or if this Executor is unable or unwilling to serve then I appoint _____ as alternate Executor.

3. Bequests

3.1. I bequeath unto the persons named below, if he or she survives me by 30 (thirty) days, the following property:

Name: _____
Relationship: _____
Address: _____
Property: _____

Name: _____
Relationship: _____
Address: _____
Property: _____

3.2. If at the time of my death any of the property described in 3.1. above is no longer in my possession or part of my estate, then the bequest of such property shall be deemed null and void and shall no longer form part of this will and testament.

SAMPLE WILL

Privileged Will



Privileged Will

- A Privileged Will is an informal will which remains valid even though it does not fulfil the usual legal requirements.
- Mostly the will has to be made in writing. But there are situations where this may not be possible. The best example is a soldier during his engagement in the actual warfare or airmen so engaged or a mariner at sea may pronounce his Will by or mouth before 2 witnesses.
- That any will made by a soldier or an airman or a mariner, who has attained the age of Eighteen , when he is in actual service and is engaged in actual warfare, would be privileged. Such person can dispose of his property by a will as prescribed by the mode, manner and rules as described in section 66.

Unprivileged Will

- Every other person who does not fall into the exception carved out for privileged wills, can only make an unprivileged will. Unprivileged wills include joint wills, mutual wills and contingent wills. These are dealt with below.

Will in Normal Conditions are Called
Unprivileged Will

- A privileged will must be in writing, contain a signature or mark of the testator in presence of two attesting witnesses who must also sign or affix their marks in the presence of the testator

Contingent or conditional Will

- Conditional Will is used by a person when he/she wants the Will to become effective on the fulfilment of certain conditions or in case of occurrence of some event.
- then this type of will comes into effect in case of an event satisfying the conditions mentioned in the Will

Contingent or conditional Will



I am writing a will in favor of Ram's daughter for a certain asset . But this will only be effective If Ram dies before the marriage of daughter of Ram. 100% of assets should be given her at the time of her marriage.

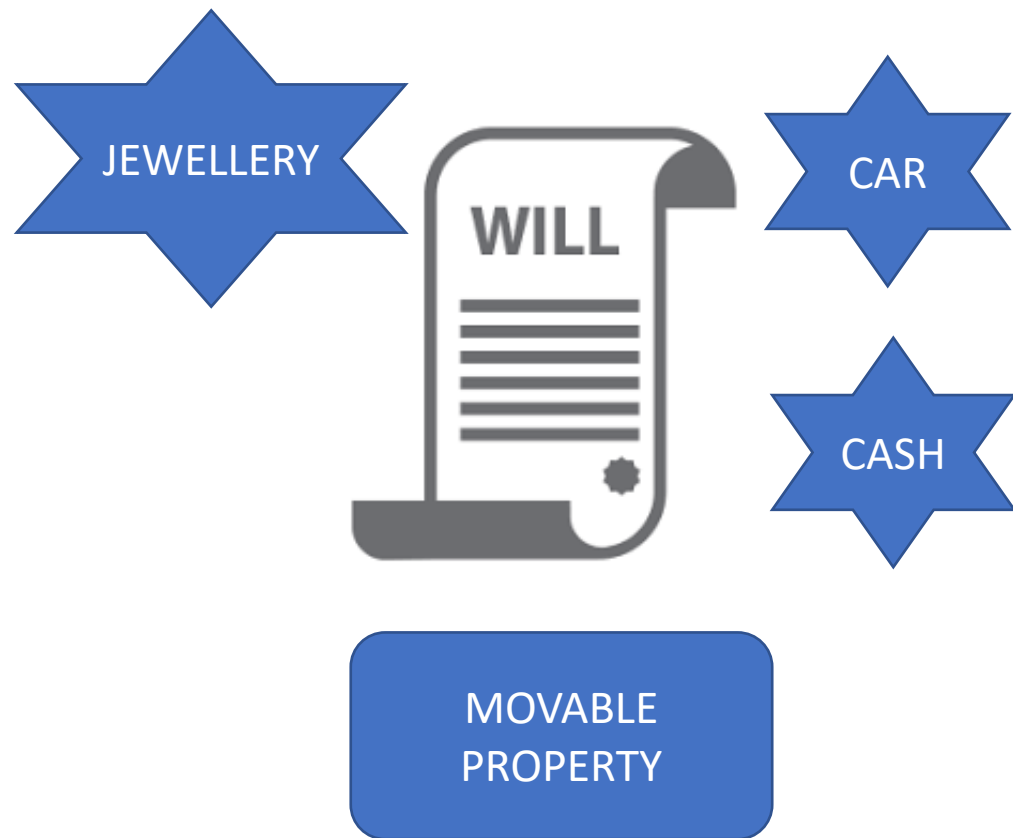
Concurrent Wills

- In general there should be only one Will left by the testator, but sometimes the testator may write two wills –one relating to his property in one country and other relating to his property in other country.
- Both these wills are treated as independent

Concurrent Wills

- For example, one Will in the Concurrent Will can have the details about the disposal of all the immovable assets.
-
- At the same time, another Will deals with the disposal of all the movable assets.

Concurrent Wills



Mutual Will



Mutual Will

- As evident from the name, in this type of Will, the testator confers on other for benefits. It is executed by husband and wife during their lifetime to pass the benefits to other people during their lifetime.
- A mutual will is executed by two persons (both testators) who mutually agree, on certain terms and conditions, and confer reciprocal benefits upon each other, making each other legatees.
- In a mutual will, the two testators confer upon each other reciprocal benefits. The testator has absolute benefits in each other's properties or life interest. This means the executants fulfil the role of both testator and legatee. But when the testator and legatee are different then the mutual will is not viable.

Joint Will



Joint Will

- Joint Will is a type of Will wherein two or more persons agree to make a conjoint Will. Generally Joint Will intends to take effect after the death of both persons, then it would not be enforceable during the life-time of either. The person at any time during the joint lives or after the death of one can revoke the joint will..
- A joint will is a will made by two or more persons. In Indian law, a joint will is a valid will. A joint will is recognized as two wills and is intended to take effect after the death of both the testators.
- Like a contract — though unlike a regular will — you or your partner can't change or revoke a joint will without permission from the other. That's why joint wills may appear attractive.
- Laws takes it two separate wills. Generally not advisable

Holographic Will

my will

I Code Dallas want to give what I own to both my sons Zandon Dallas and Kease Dallas 50% each my money cash in the bank kuta central remain Commonwealth

also my land at Bawa to be sold and split 50% each

also my business either to be sold or run by my family but money goes to zandon & Kease

I would like trust funds set up for both boys. But money given every week for them and their mothers.

Thank u
Code Dallas
26/2-11

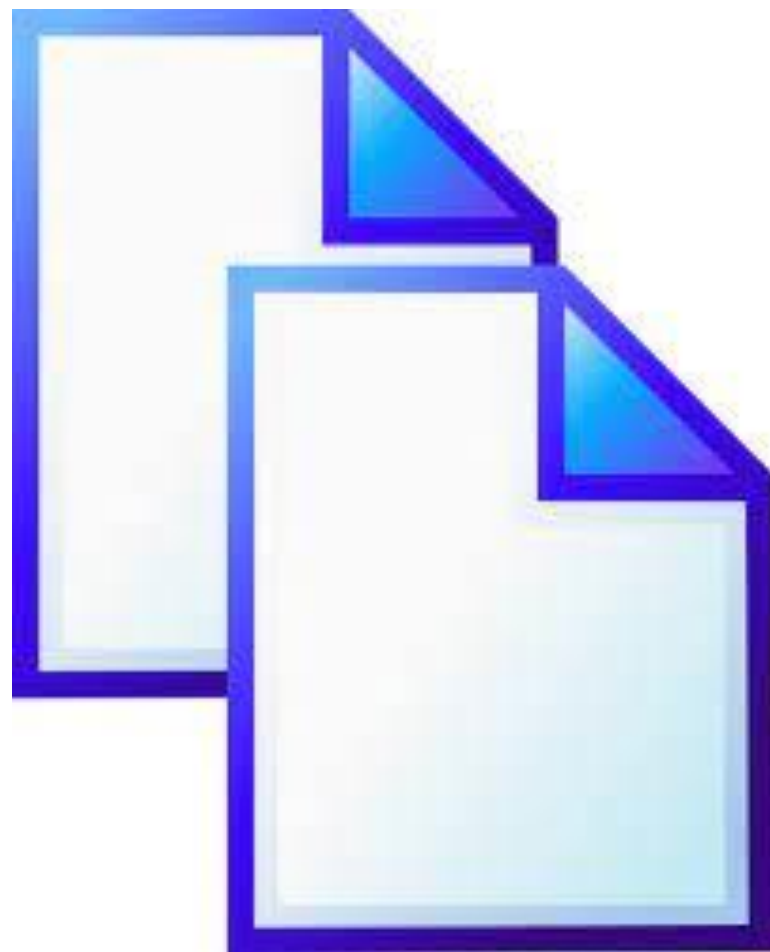
Holographic Will

- **Handwritten wills** that are written by the person making the will (called the testator), and have not been witnessed or notarized, are called **holographic wills**

Holograph Will

- Be entirely in the testator's handwriting
- Clearly describe the property, and identify the beneficiaries to whom the property is to be distributed
- Be signed by the testator (some states also require that the will be dated).

Duplicate Will



Duplicate Will

- **A duplicate will is one where a testator executes two copies of the will. Usually one copy is retained by the testator, and the other deposited with another person, which may be the executor, a trustee, or even an institution such as a bank.**
- **This may be done for safety or safekeeping. Although there is more than one copy in existence at the same time, each copy is considered a single will**
- **In order for a duplicate will to be considered valid, a testator must execute the duplicate copy as was done for the original**
- **Further, if the testator destroys the original in his custody, all copies regarded as a duplicate(s) are to be considered as revoked**

Registration of Wills

- The law does not provide any reference to compulsory registration and so a non-registered Will is considered to be a genuine will.
- However, there are many advantages of a registered will.

Registration of Wills

- 1. The will cannot be tampered, destroyed or stolen.
- 2. The wills are kept in the safe custody at the registrar office.
- 3. With a registered will the leasehold property can be edited in the name of the legal heirs.

Some Important Points about a will

- Registration of will is not mandatory.
- Will is registered under the registration act and authenticity increases, and one copy always lies with the registrar office
- No stamp duty paid...Just 500 Rs as registration fees
- Signature is mandatory
- Each page signature required
- Legatee could be individual , Trust ,HUF

Some Important Points about a will

- **Witness has to be attested**
- **Who is a beneficiary can't attest as witness**
- **An executor can attest as a witness but preferably third person**
- **Witness from medical officers should be preferred**
- **Hiring profession people for writing a will they can also be witness**