

Preparation of Will by Elders

You may think that you do not have that much property to make a Will and you have a Joint Bank Account, Fixed Deposits etc with nominations done in all cases. This is not correct as nomination does not make the nominee its owner. Nomination grants only holding rights and not ownership. Death, which is certain, has complete uncertainty for its timings! On death, all your kith & kin can claim your property, may be few rupees, in proportion laid down in Succession Law applicable to you and no one, even your surviving wife can deny any share to entitled child or dependent relative! If you make a Will in favour of your wife, no one can claim your property included in the Will. You can make provision in the same Will to give any or some portion after the death of your wife or along with your wife after your death. Even when your wife is alive, you can give your entire property or part thereof to Charitable Trust, Temple, Associations or any person of your choice, related or otherwise. In view of this legal position and certainty of uncertainty of death, it is necessary for each elder to make his will as early as possible.

Preparation of Will is very very simple. It does not require to be in any particular form or legal language or on stamp paper. On simple durable paper (even on back of used envelope), you can write in your own language as to what you want to do with your money/property and in what proportions, you want to give and to whom. It need not be in English or the State Language. You must describe money, property etc in proper details and where it is. Even likely additions can also be included in the Will. Name of the beneficiary and their details with how much portion, you desire to give should be clearly stated. After writing your desire in simple language with date, you can sign in presence of any two witnesses to whom you need not tell as to whom you are giving what. It will be preferable, if one witness is your family doctor or any other doctor, so that soundness of mind and body at the time of making Will is automatically testified. This is not absolutely necessary and any two witnesses will do. If there is more than one page, each page should be numbered and signed with date. Signature of two witnesses should be obtained on each page. Responsibility of witnesses is limited to your signature in their presence and not about what you have written. No stamp paper is required nor is any stamp fee to be paid. Even by the receiver, no income tax, gift tax, estate duty etc is to be paid. Will makes the transfer of your property as per your wish very simple for the benefit of beneficiaries. Probate shall be necessary only after your death. Your Will supersedes the provisions of your Succession Law.

You can change your Will at any time and as many times, as you wish! Only thing necessary is to write afresh, give date and get signed by two witnesses, not necessarily the same two, who had signed earlier. Only last Will shall be operative and as such never forget to put date on each page.

You can keep your Will in your custody, with your wife, son, relative, friend, and any body you trust with instructions to open only after your death. If you like, you may inform beneficiaries about the preparation of Will. This is not necessary. Will need not be registered at all, if you do not have too much property and no complications are involved in property or beneficiaries. Registration gives authentication but not compulsory. If you have large property and many beneficiaries, you can get it prepared with the help of advocate/ C.A.. and also appoint an executor of the Will for smooth transfer of property to all beneficiaries.

Will, though on simple paper and not registered becomes a legal document, which can not ordinarily be challenged or disputed.

Preparation of Will is an act of wisdom for the elder with even little money/ property and results in welfare of his near & dear ones.

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