

## Why you need a Will—and how to get it right

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With multiple tasks vying for our attention daily, writing a Will rarely makes it to the top of the list. For many, it's something only the wealthy bother about.

But as long as you have assets to pass on, you should give serious thought to making a Will. You can even draft it yourself, as long as you get the basics right.

A Will is a simple way to keep your family informed of your assets and ensure they're passed on exactly as you wish after you're gone.

### **Why make a Will**

When you die intestate—that is, without making a Will—your assets are distributed among your heirs under succession laws that vary by religion and gender. The result may not align with your wishes.

"In the case of an asset owner dying intestate, the applicability of succession laws depends on the religion of the deceased on birth. If the person is a Hindu, Jain, Sikh or Buddhist, he/she will be governed by the Hindu Succession Act, 1956. Under this law, there is a significant difference in the case of a Hindu male versus a Hindu female dying intestate," says Rajat Dutta, founder, Inheritance Needs Services.

Parsis, Christians, and Jews are governed by the Indian Succession Act, 1952, and Muslims by the Muslim Personal Law.

## **Hindu inheritance differences**

When a Hindu male dies intestate, his assets go equally to his class I heirs—his mother, spouse, and children. If none exist, they go to class II heirs, then to agnates, and finally cognates.

“Compared to this, the asset distribution for a Hindu female dying intestate depends on the source from where those assets or wealth came,” said Dutta.

In the case of a deceased Hindu female, the assets are first distributed among the husband and children including the children of pre-deceased children (that is, children of the Hindu female’s deceased son or daughter). If none exist, then among her husband’s heirs, and only if, they too, do not exist, then among her mother and father.

“So, if you are a married Hindu female and would like to provide for your parents after your demise, then the only way you can achieve this is by writing a Will,” says Tanmay Patnaik, partner, Trilegal.

Note that the rules are different when it comes to inherited property. In the absence of children (including the children of pre-deceased children), any property inherited by a Hindu female from her mother or father will pass on to her father’s heirs, and that inherited from her husband or father-in-law will pass on to her husband’s heirs.

Gender differences aside, in the absence of a valid Will, the deceased's legal heirs may be required to obtain letters of administration (LoA) in respect of the deceased's estate, said Patnaik.

In Delhi, court fees for an LoA are:

- 2.5% for estates worth ₹1–10 lakh
- 3.25% for ₹10–50 lakh
- 4% for estates above ₹50 lakh

“A succession certificate is an alternative document one may obtain from the court. But this may be granted only in respect of debts (owed to the deceased) and securities (includes mutual funds, stocks etc.) and not any other assets. If the estate includes any assets other than debts and securities, LoA would be the appropriate document,” said Patnaik.

The court fee for a succession certificate in Delhi is 2.5% of the value of debts and securities.

## **How to draft a Will**

Keep the language simple, clear, and unambiguous. List all assets (mention account numbers, branch names, or property details) and specify beneficiaries and their exact shares.

For jointly held assets, mention your share—only that portion can be passed on through your Will. Don’t leave out any assets; add a clause on how to distribute anything not listed.

What if you acquire new assets later? One option is to make a codicil, a short legal document used to modify an existing Will.

However, Patnaik, suggested an easier route: When writing your original Will, you can specify how any assets acquired in future must be dealt with. Eventually, rather than modify the existing Will, you can make a fresh Will after any big asset purchases or a major life event such as marriage or the sudden demise of one of your heirs.

Your Will must be dated and signed by you in the presence of two witnesses, who must not be beneficiaries. Choose witnesses who are younger and likely to outlive you. Though not mandatory, naming an executor helps ensure that your wishes are carried out—often, one of the beneficiaries is chosen for this role.

If you're uncertain, get professional help. A poorly executed Will can defeat its very purpose—providing a clear transfer plan for your assets.

According to Shantala Kumble, chief compliance officer at International Money Matters, a Sebi-registered investment advisor, professionals typically charge ₹15,000–20,000 to draft a Will. Online Will-making platforms offer cheaper options—from ₹1,500 for a basic Will to ₹7,000 for a complex one. Registration can cost another ₹8,000–10,000.

### **Should you register a Will?**

Registration is not mandatory, but it adds credibility. You can register your Will at the sub-registrar's office, where property documents are usually recorded.

While registration may not be critical for financial assets, it can make a significant difference when it comes to property transfers after the owner's passing, said Kumble.

"When a Will is registered, the sub-registrar maintains an official record, which helps establish its authenticity. If it isn't registered, verifying the Will's validity can become difficult, potentially delaying or even hindering the transfer of property to the rightful heirs," Kumble said.

For financial assets, ensure that nominees are listed with all institutions such as banks and mutual fund houses.

That said, a registered Will can still be challenged in court. As Patnaik said, if you register your Will but subsequently make another private Will, then it is the latter which will be considered valid. Indian law recognizes the last executed Will.

While registration ensures the document remains in official custody, Patnaik cautioned that it can be cumbersome if you wish to amend your Will frequently.

An alternative is to video record the signing of your Will in the presence of witnesses to strengthen its authenticity.

Several thousand crores in financial assets lie unclaimed with various government agencies—often because families are unaware of what's left behind. A well-drafted Will ensures your assets don't end up lost in the system, and that they are passed on to your rightful heirs.