



# Introduction to Indian Succession Act – Part 1

SUCCESSION PLANNING SERIES #09

# Introduction and Applicability

In our previous alerts, we dealt with the implications where a Hindu dies without making a will, i.e., he / she dies intestate and the process of succession thereon as per Hindu Succession Act ('HSA'). The applicability of different legislations, based on religion of the deceased & whether a Will is left behind by such deceased, is summarized below:

Religion	Testamentary (with Will)	Intestate (without Will)
Hindus, Jain, Sikh, Buddhist	Indian Succession Act, 1925	Hindu Succession Act, 1956
Christian, Parsis, Jews	Indian Succession Act, 1925	
Muslims	Muslim laws*	

We shall now look at the provisions of the Indian Succession Act, 1925 (ISA).

*\* In cases where the subject matter of property is an immovable property situated in the state of West Bengal, Chennai and Bombay, the Muslims shall be bound by the Indian Succession Act, 1925. This exception is only for the purposes of testamentary succession.*



# Applicability of ISA based on Domicile and Property type

A

ISA provides the succession principles based on the domicile of the deceased at **the time of death** and **the type of property** (movable / immovable property).

B

Domicile is a place where a person has his **fixed habitat**. In simple words, it means declaration of his intention to reside in a particular place for the rest of his life.

C

A person can have only **one domicile** for the purpose of the succession of the moveable property owned by him.

The applicability of succession laws based on the domicile at the time of death and the type of property is as follows:

Particulars		Domicile in India	Domicile outside India
Movable property	Located in India	ISA shall apply	Succession laws of foreign country
	Located outside India	ISA shall apply	Succession laws of foreign country
Immovable property	Located in India	ISA	
	Located outside India	Succession laws of foreign country	

*If a person dies leaving moveable property in India and if there is no proof of his domicile elsewhere, then the succession to the said moveable property shall be regulated by the succession laws of India.*

# Examples relating to Domicile Provisions

1

Mr. A, having his domicile in India, dies in France, leaving moveable property in France and England, and both moveable and immovable properties in India.

- The succession to all the movable properties owned by Mr. A (regardless of the location) shall be regulated by ISA since his domicile was in India.
- The succession to Indian immovable property shall be regulated by ISA (place of domicile does not matter).

2

Mr. A, having his domicile in France, dies in India, and leaves property, both moveable and immovable, in India.

- The succession to the moveable property owned by Mr. A shall be regulated by the succession laws of France since Mr. A's domicile was in France.
- The succession to the immovable property owned by Mr. A shall be regulated by the succession law of India since domicile of the deceased does not matter in case the immovable property situated in India.

# Domicile by origin / birth



The domicile of a legitimate child is the country in which his **father** was domiciled during his birth.

The domicile of an illegitimate child is the country in which his mother was domiciled at the time of his birth.

The domicile of posthumous child (born after the death of his father) is the country in which his father was domiciled at the time of the father's death.

*Domicile of origin prevails until a new domicile has been acquired*

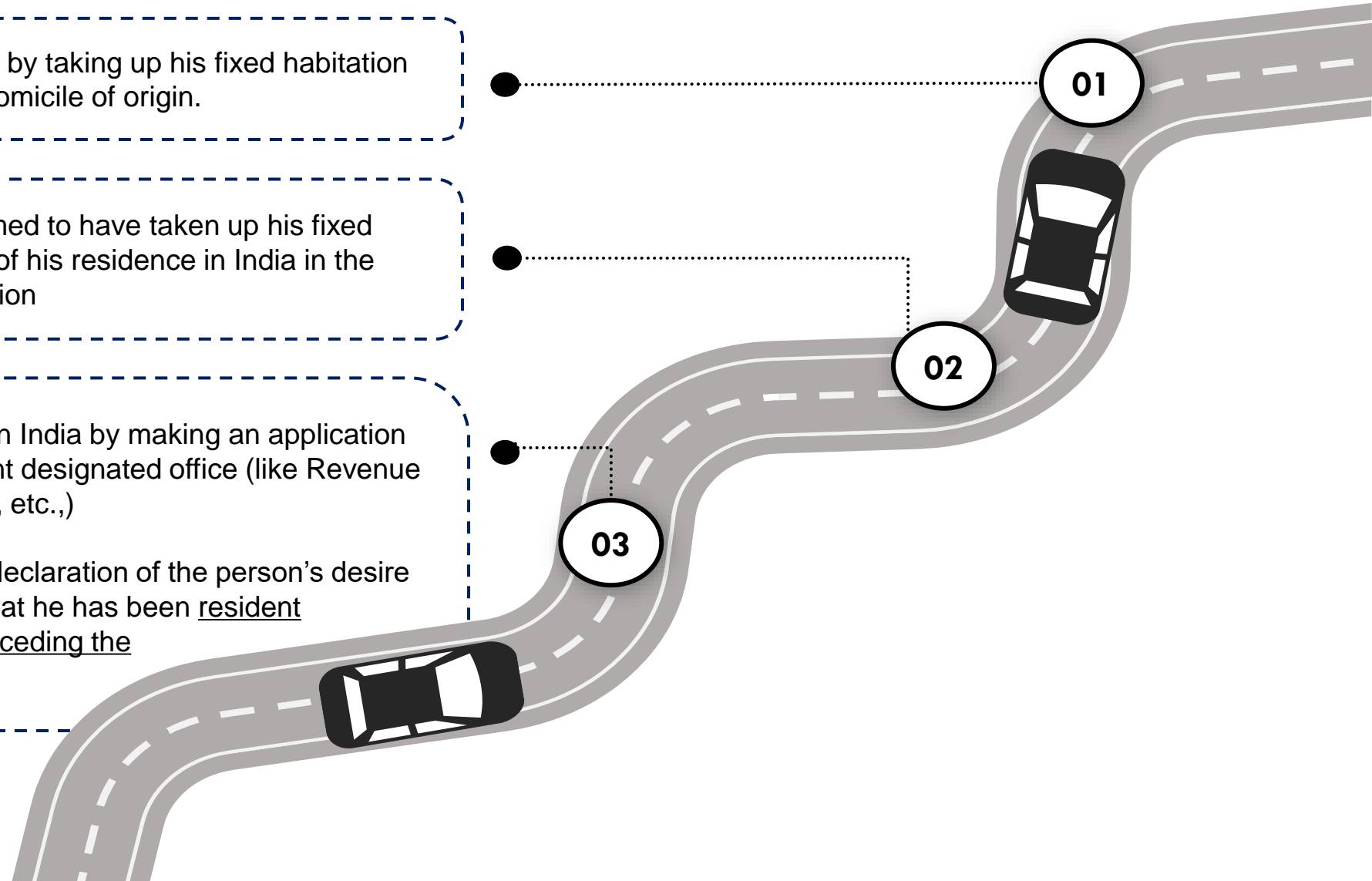
# Domicile by Acquisition / Choice

A person can acquire a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

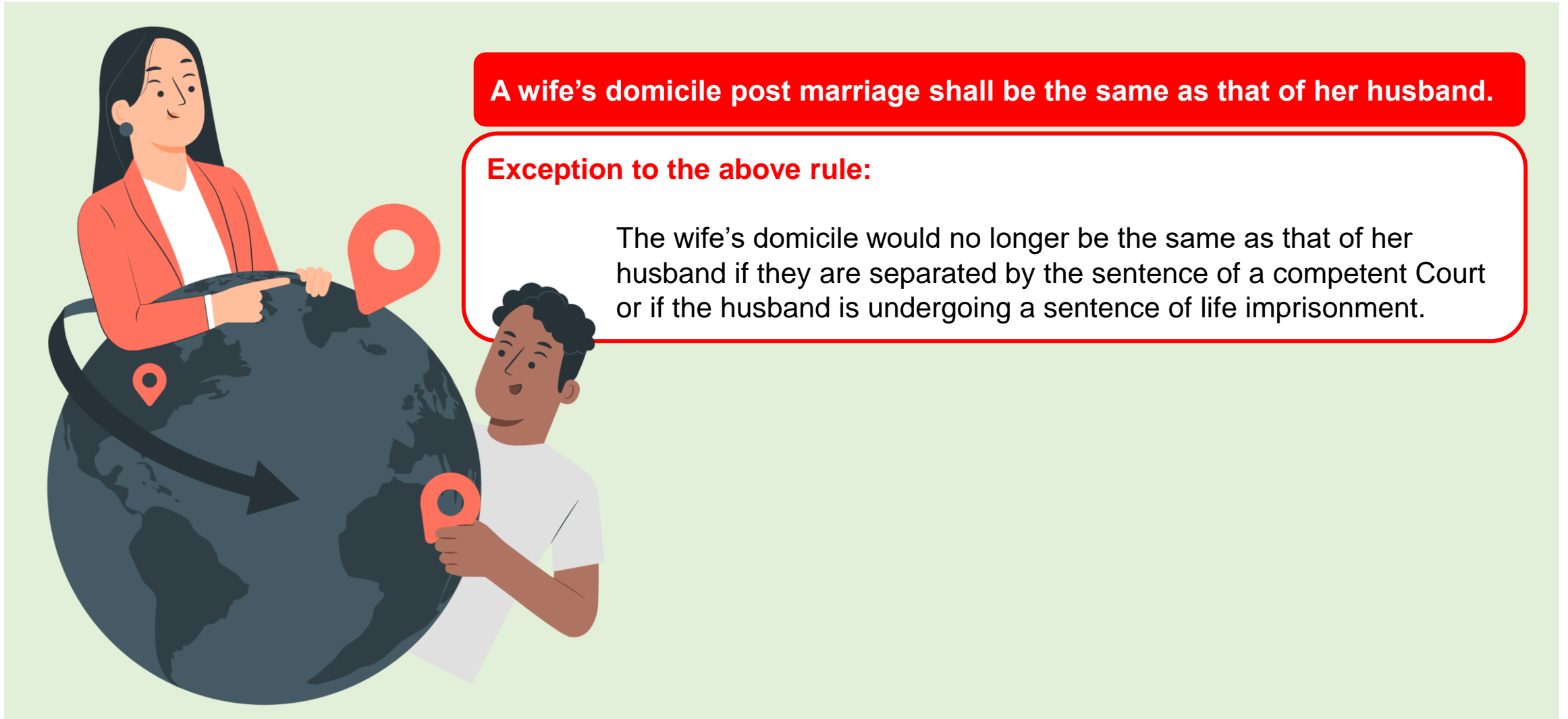
However, a person shall not be deemed to have taken up his fixed habitation in India merely by reason of his residence in India in the course of carrying out of any profession

Any person may acquire a domicile in India by making an application with the respective State Government designated office (like Revenue office / Tehsildar / District Magistrate, etc.,)

The said application shall include a declaration of the person's desire to acquire such domicile, provided that he has been resident in India for one year immediately preceding the time of his making such application.



# Domicile by Marriage



**A wife's domicile post marriage shall be the same as that of her husband.**

**Exception to the above rule:**

The wife's domicile would no longer be the same as that of her husband if they are separated by the sentence of a competent Court or if the husband is undergoing a sentence of life imprisonment.

# Succession Knowledge Series

Please find below the list of completed alerts from the series. In case you have missed the previous alerts, click on the hyperlink for the completed alerts to refer the same.



- 1 [An Introduction to Succession Planning](#)
- 2 [Types of Succession in India.](#)
- 3 [An Introduction to Hindu Succession Act, 1956](#)
- 4 [Rules of Intestate Succession Male - Part 1](#)
- 5 [Rules of Intestate Succession Male - Part 2](#)
- 6 [Illustrations on Intestate Succession for Hindu Male](#)
- 7 [Intestate Succession for Hindu Female](#)
- 8 [Key Aspects in Hindu Succession Act, 1956](#)

In case you have downloaded the alert via LinkedIn, the links might not work, refer our website for the same - <https://www.m2kadvisors.com/>

Please click on the link to subscribe to our alerts – [M2K Alert Subscription](#)



Got more  
questions?

*Drop in your queries below and we'll try  
covering them in the upcoming series*

[Enter your questions here](#)



**[knowledge@m2k.co.in](mailto:knowledge@m2k.co.in)**



**M2K Advisors**

*In case you have downloaded the alert via LinkedIn, the link to the form might not work,  
refer the mentioned link for the same - <https://forms.gle/7Urx7gJFn8r5Ysob6>*

# THANK YOU

## Chennai - India

### M2K Advisors LLP

30/64, 7<sup>th</sup> Floor, Briley One,  
Ethiraj Salai, Egmore,  
Chennai - 600008  
Tamil Nadu

## Hyderabad - India

### M2K Advisors LLP

Manjeera Trinity Corporate  
JNTU Road, Plot No S2 ,  
Telangana- 500072  
Hyderabad

## Singapore

### M2K Advisors Pte Ltd

The Octagon,  
105 Cecil Street, #07-02  
Singapore 069534

## USA

### M2K Sai Advisors Inc

1 AUER CT,  
2nd Floor, East  
Brunswick  
New Jersey - 08816

## Reach us at:

[knowledge@m2k.co.in](mailto:knowledge@m2k.co.in)



This deck is intended for general guidance only and hence should not be considered as an advice or opinion. We do not accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this deck. On any specific matter, reference should be made to the appropriate advisor.