



Drafting of a Will

SUCCESSION PLANNING SERIES #12

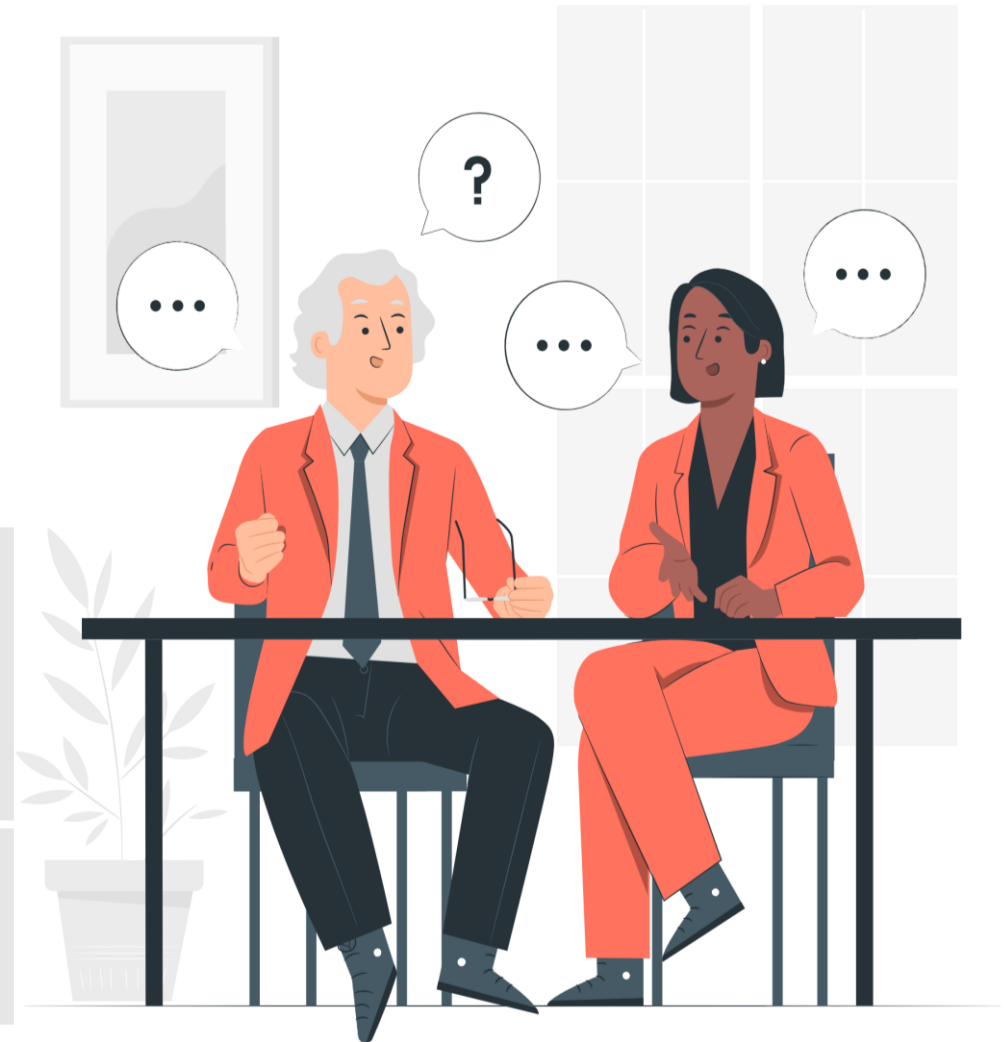
Properties covered under a Will

A Will can be made by a person in respect of any property which he / she owns and has full rights over. In case the testator's rights on a property are non-existent, then any Will made by such testator, in respect of the said property, shall be null and void.

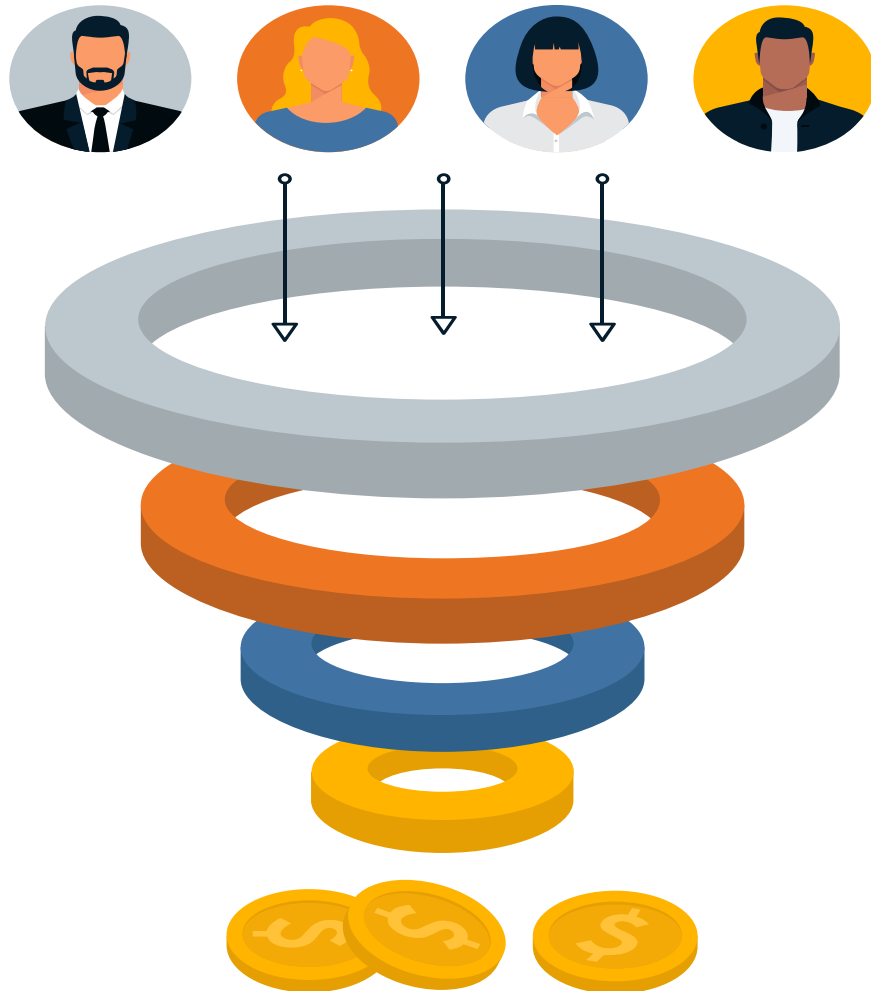
A Hindu can bequeath (i.e., include in the Will) the property which is inherited by him / her. Further, interest in a joint property can be passed on by way of a Will, only to the extent of his / her share in the joint property.

Few examples of properties that are included in a Will are as follows:

Movable Property	Bank Accounts, Fixed Deposit, Shares, Debentures, Mutual Funds, Jewellery, Motor Vehicles, Furniture and Fixtures etc.
Immovable Property	Land, Building, Flat, Shops, Office, etc.



Important aspects to be considered while drafting a Will (Part 1)



There is no specified format for drafting a Will. It also can be written in any language. A will can be hand-written or typed out.



Language of the Will should be clear, simple, and unambiguous.



The words “Last Will and Testament of <name of testator>” should be used in the title to make it clear that the document is the testator’s Will.



Specific mention can be made that the testator is of sound mental health and has not been coerced while making the Will

Important aspects to be considered while drafting a Will (Part 2)

Beneficiaries are to be clearly identified i.e., the relation to the testator, the proof of identification etc. should be clearly mentioned. In case any of the beneficiary is a minor, then a guardian needs to be appointed for the custody of the assets till the time such minor becomes major.

If the testator is not bequeathing any property to any of his heirs, it is advisable that the reason for the same is specified, so as to avoid disputes in the future.



The Will should specifically contain a clause that the said Will can be altered / cancelled by the testator in future, thereby making it more flexible.

The list of the assets and properties proposed to be bequeathed by the testator should be mentioned along with the proper description of the assets and the manner of distribution of such assets.

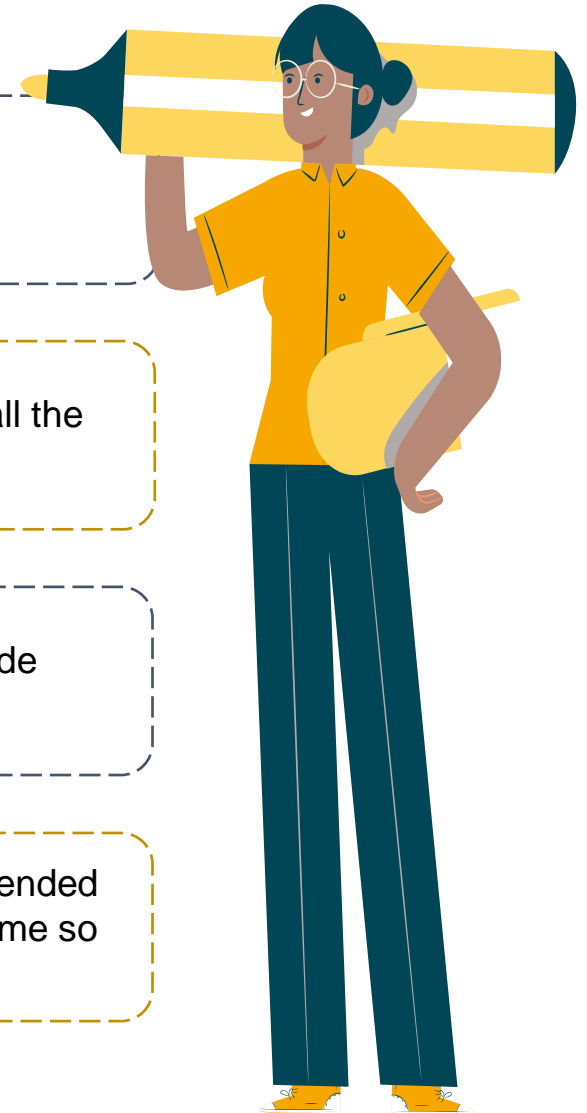
Important aspects to be considered while drafting a Will (Part 3)

The Will shall be signed by the testator in the presence of minimum 2 witnesses

Each page of the Will should be serially numbered and signed by the Testator and the Witnesses on all the pages.

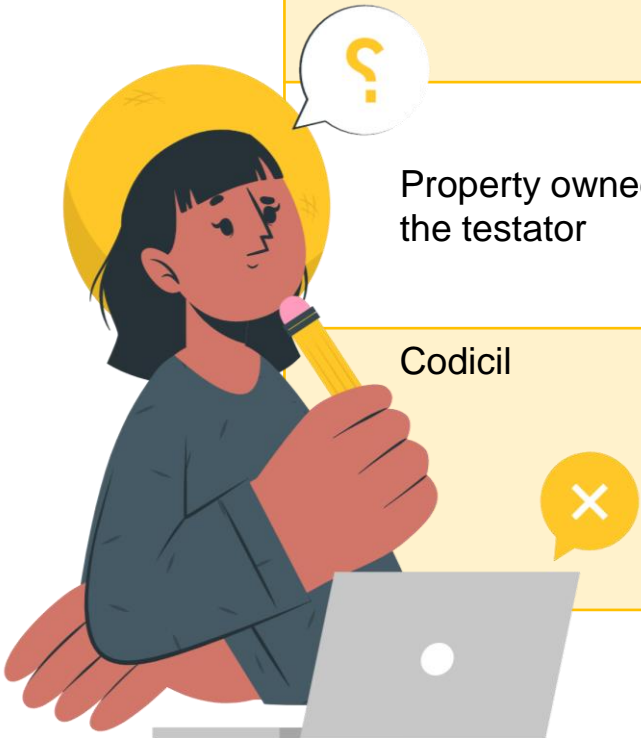
The paragraphs in the Will should be clearly numbered. References to any paragraphs should be made without any errors.

The date on which the Will is prepared must appear at the first and last page of the Will. It is recommended that the date of preparation of Will and date of signing of Will (especially by the witnesses) shall be same so as to avoid the presumption that the Will was not prepared in the presence of the witnesses.



Comparison of good vs bad drafting

Category	Bad drafting	Good drafting
Declaration by the testator	I have made this Will on DD/MM/YYYY.	I have made this Will on DD/MM/YYYY out of my own sound mind and I am in good health at the time of making this Will. I have understood the contents of this Will in full. There was no force or coercion by anyone on me to execute the Will.
Property owned by the testator	Property situated at No. 1 GST Road, Tambaram shall be bequeathed between X and Y.	The Land and Building situated at No. 1 GST Road, Tambaram, Chennai – 600046, Tamil Nadu; measuring 2400 sq. Ft., shall be bequeathed equally between my sons X and Y and they shall have equal rights in the said property.
Codicil	This is the last will and testament of I, Mr. A.	This is the last will and testament of I, Mr. A. I hereby revoke all wills and codicils if any made by me and declare this to be my last will in respect of the properties prescribed in the Schedule. I further declare that during my lifetime, I am entitled to change, transfer, withdraw or cancel the Will.



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