



- Know your Inheritance
- Protect Your Wealth
- Plan Your Succession

**CA Namita Lakhotia**

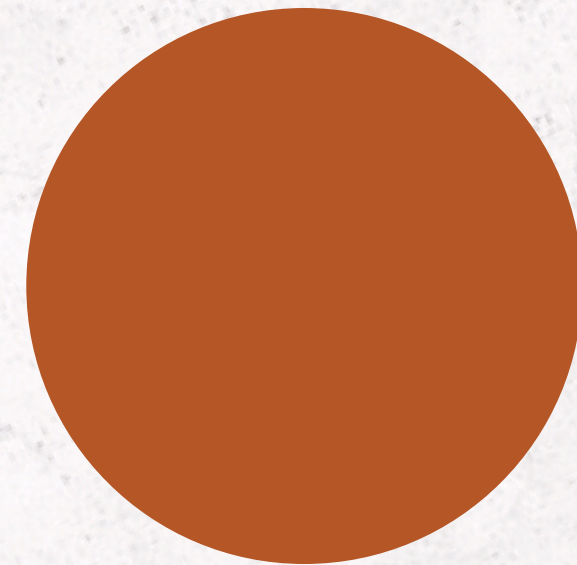
---



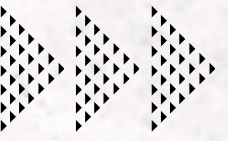




# Inheritance Rights of Women in India







## **Inheritance Rights of Hindu Female**

### **As a Mother ;**

- From Son - Class 1 heir
- From Daughter - Third in order

### **As a Wife :**

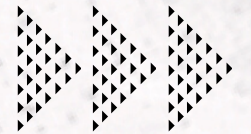
- Class 1 heir

### **As a Daughter :**

- Unmarried- Class 1 heir
- Married- Class 1 heir

### **As a sibling :**

- From a brother - Class 2 heir
- From a sister - Fourth in order



## **Rights in HUF**

### **As a Daughter:**

- By Birth or Adoption - Coparcener
- They have the right to demand Partition

### **As a mother :**

- Mother is not a member of the son's HUF

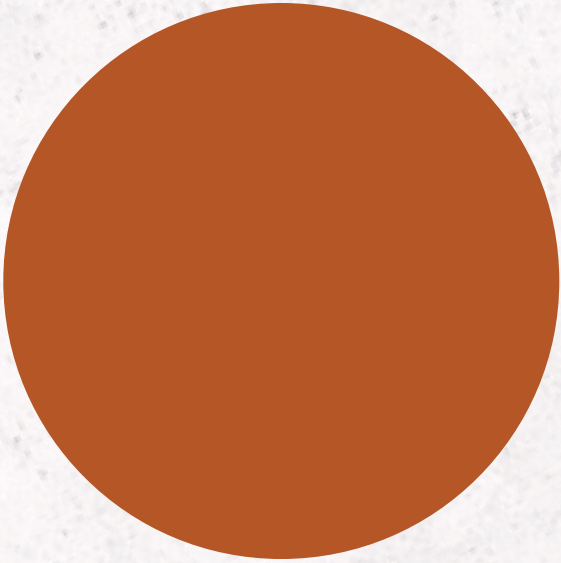
### **As a wife:**

- By marriage - Member NOT Coparcener
  - No right to demand partition
-

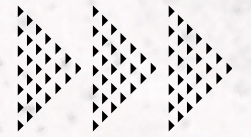




# Succession



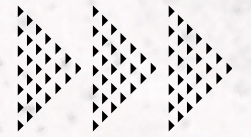




## Case Study:

- Ankur, 55 years, a self made reputed business man in Kolkata, having interest in IT and IT enabled Services.
- Father, now retired and dependent.
- Wife, though well educated, but chose to be a home maker.
- One sister who is a widow, is dependent on him.
- Daughter 1 - Married against her father's wish. Ankur does not have cordial relation with her.
- Daughter 2 - Married to a Business man, Director in husband's entity. Company is under insolvency and daughter 2 has given personal guarantee against the loan taken by company.





- Son - Done his higher studies and settled abroad, running his own venture and not interested in returning back to India and join father's business.
- Ankur got infected from COVID.
- On 6th day the oxygen level started falling suddenly and admitted to ICU on doctor's advice.
- Reports suggested that his lungs are badly damaged.
- Put on Ventilator.
- After 10 days of fight, he ultimately departed.
- Hospital bills, running in lakhs, yet to be settled.

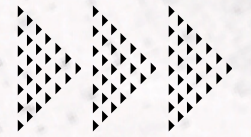




## **After Effects:**

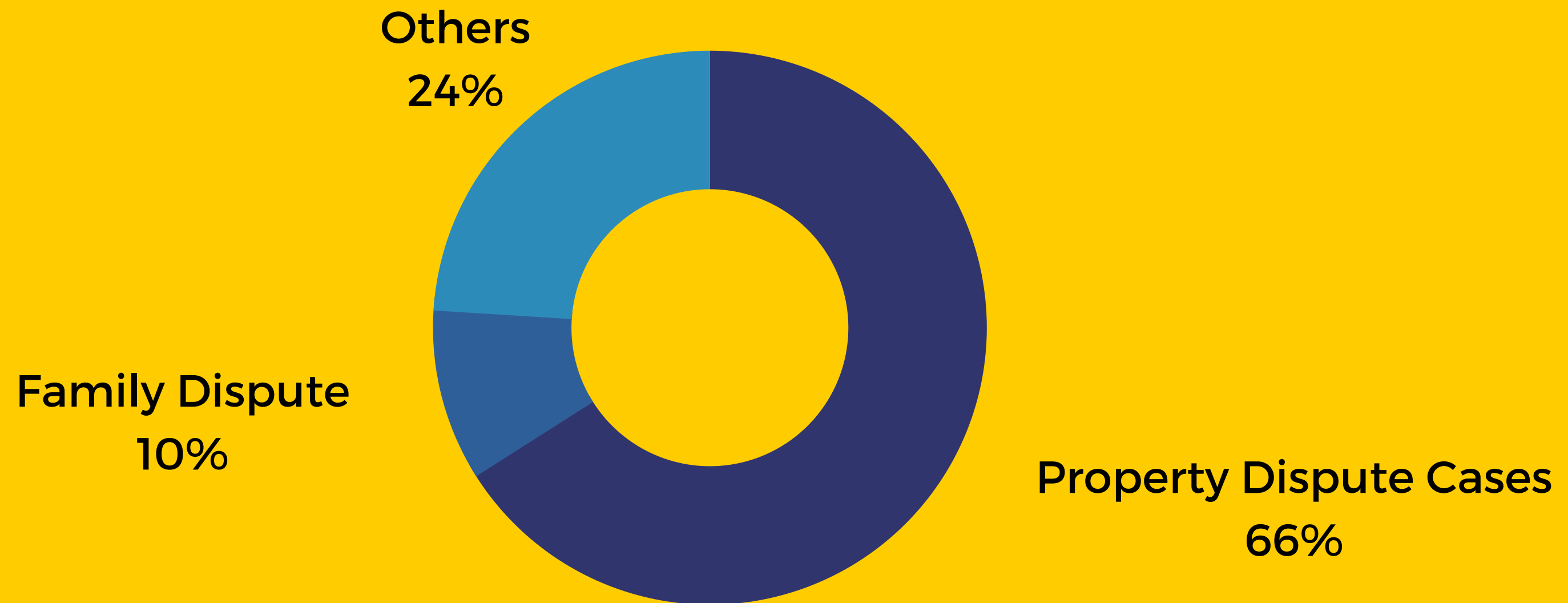
- Family shocked & shattered.
  - How would the family manage their immediate needs?
  - Who will manage businesses?
  - Who will take care of Father and Sister?
  - Who knows what assets & Liabilities he had and how to access that?
  - How would one protect from misappropriating wealth accumulated for the benefit of family?
  - How to protect 2nd daughter's share from getting it attached by the court?
  - How to protect the distribution of wealth to first daughter.
-





# Indian Statistics

## As per PIB - 03/03/2016







## **Know About "WILL"**

A "WILL" is a document, considered as a legal declaration of the intention of a Testator about the distribution / disposal of his possessions / assets / properties etc. after his death.

### **Common Characteristics:**

- Legal declaration of Testator's Intention
- With regard to his property
- Manifests only after the death
- Can be revoked / reviewed any number of times
- No fix format
- handwritten
- plain paper
- tangible / intangible assets

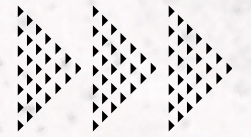




## **Parties to the Will**

- **Testator / Testatrix**
- **Beneficiary -**
  - Individual / Non Individual
  - Relative / Non Relative
  - Minor / Person with Special need
- **Non beneficiary**
- **Executor-**
  - Single / Multiple / Individual/ Non Individual
  - Obtain Probate
  - Distribute the assets
- **Witness**
  - At least two
  - Independent





## **Probate:**

- Copy of WILL certified by court seal.
  - Establishes authenticity/finality
  - An application need to made to court along with payment of fee
  - Probate is compulsory in case of Will executed within areas under jurisdiction of Mumbai, Madras and Kolkata High Courts.
  - Will outside these area if they relate to Immovable property situated within the above 3 areas.
-

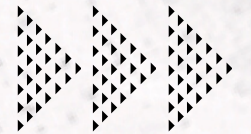




## **Succession Certificate :**

- **For intestate Succession**
- **To apply to jurisdictional Court**
- **Details of Legal heirs and properties**
- **Properties are distributed by applying the succession law and not as per the wish of deceased**





## **Who Can Make a Will?**

- A person who has attained majority and is of sound mind. E.g. Illiterate, Old person, Terminally Ill etc...
- Intoxicated Person / one who does not understand what is he doing **CANNOT**.
- Deaf / Dumb / Blind - Can, provided he/she knows what he/she is doing.
- Ordinarily insane - can during intervals of sanity



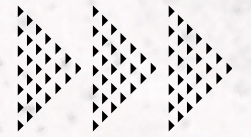


## **Intestate Succession**

In case a person dies without having will, it is termed as "Intestate Succession" and the Succession Law Shall be applicable.

<b>Religion</b>	<b>Law</b>
Hindu, Jain & Sikh	Hindu Succession Act, 1956
Christian, Parsi & Jew	Indian Succession Act, 1925
Muslim	Muslim Law





## **Male Hindu Dying Without WILL ( Sec. 8)**

**1**

**Class I Heirs – Son, Daughter, Mother, Widow, Child of predeceased child, Widowed DIL etc.....**

**2**

**Class II Heirs – Father, Son's Daughter's children, siblings etc.**

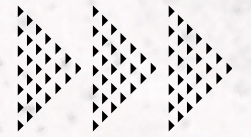
**3**

**Class III Heirs –Agnates – Father's Brother's daughter etc...**

**4**

**Class IV Heirs – Cognates – Mother's Brother's Daughter etc...**





## **Intestate Male - Illustration :**

**Case 1 - Heirs Left - Mother, Father, Wife, Son, DIL, daughter, SIL**



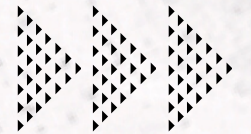


## **Intestate Male - Illustration :**

**Case 1 - Heirs Left - Mother, Father, Wife, Son, DIL, daughter, SIL**

- Mother, Wife, Son, Daughter each shall get 25% being class I heirs
- Father, even though alive, won't get any share as class II heirs
- DIL would get share only if the son has already expired





## **Intestate Male - Illustration :**

**Case 1 - Heirs Left - Mother, Father, Wife, Son, DIL, daughter, SIL**

- Mother, Wife, Son, Daughter each shall get 25% being class I heirs
- Father, even though alive, won't get any share as class II heirs
- DIL would get share only if the son has already expired

**Case 2 - Heirs Left - wife, brother, sister, son's widow, predeceased daughter's son**





## **Intestate Male - Illustration :**

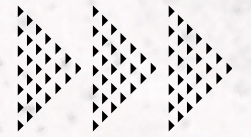
**Case 1 - Heirs Left - Mother, Father, Wife, Son, DIL, daughter, SIL**

- Mother, Wife, Son, Daughter each shall get 25% being class I heirs
- Father, even though alive, won't get any share as class II heirs
- DIL would get share only if the son has already expired

**Case 2 - Heirs Left - wife, brother, sister, son's widow, predeceased daughter's son**

- wife, son's widow, predeceased daughter's son would get 33.33% each
- Siblings (i.e. brother and sister) being class II heirs won't get anything as class I heirs are present





## Female Hindu Dies Without WILL (Sec. 15)

**Absolute Property of Hindu Female - she can deal as she likes**

- Inheritance, Partition
- In lieu of Maintenance
- Gift
- Own skill, Purchase

### Succession Order

- Son, Daughter, Husband
- Heirs of Husband
- Parents
- Heirs of father
- Heirs of Mother

### Exceptions

If property inherited from parents & lady dies without children - property reverts to father's heirs.

If property inherited from husband / FIL & lady dies without children - property reverts to husband's heirs





## **Hindu Female Intestate Succession**

**Case 1:** Hindu female dies intestate leaving behind her husband , one son and one daughter, no parents



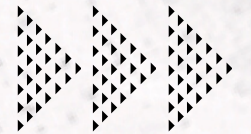


## **Hindu Female Intestate Succession**

**Case 1:** Hindu female dies intestate leaving behind her husband , one son and one daughter, no parents

- Self Earned : Her husband , son and daughter shall get  $\frac{1}{3}$  rd each
- Inherited from Parents: same as above
- Inherited from Inlaws : same as above





## **Hindu Female Intestate Succession**

**Case 1:** Hindu female dies intestate leaving behind her husband , one son and one daughter, no parents

- Self Earned : Her husband , son and daughter shall get  $\frac{1}{3}$  rd each
- Inherited from Parents: same as above
- Inherited from Inlaws : same as above

**Case 2:** Hindu female dies intestate - no husband and children, parents and inlaws living





## **Hindu Female Intestate Succession**

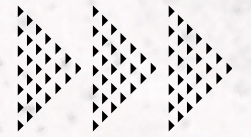
**Case 1:** Hindu female dies intestate leaving behind her husband , one son and one daughter, no parents

- Self Earned : Her husband , son and daughter shall get  $\frac{1}{3}$  rd each
- Inherited from Parents: same as above
- Inherited from Inlaws : same as above

**Case 2:** Hindu female dies intestate - no husband and children, parents and inlaws living

- Self Earned : To husband's legal heir
  - Inherited from Parents: To legal heirs of father
  - Inherited from Inlaws: To legal heirs of husband
-





**Case 3:** Hindu female dies intestate no husband , no kids, no inlaws, one brother in law and parents alive.





**Case 3:** Hindu female dies intestate no husband , no kids, no inlaws, one brother in law and parents alive.

- Self Earned: To husbands legal heirs
- Inherited from parents: To father's legal heirs
- Inherited from Inlaws : To husband's legal heirs



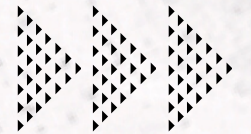


**Case 3:** Hindu female dies intestate no husband , no kids, no inlaws, one brother in law and parents alive.

- Self Earned: To husbands legal heirs
- Inherited from parents: To father's legal heirs
- Inherited from Inlaws : To husband's legal heirs

**Case 4:** Hindu female dies intestate , separated from husband , but not divorced , one son and daughter alive , she never wanted to give anything to the husband.





**Case 3:** Hindu female dies intestate no husband , no kids, no inlaws, one brother in law and parents alive.

- Self Earned: To husbands legal heirs
- Inherited from parents: To father's legal heirs
- Inherited from Inlaws : To husband's legal heirs

**Case 4:** Hindu female dies intestate , separated from husband , but not divorced , one son and daughter alive , she never wanted to give anything to the husband.

- Self Earned: To husband , son and daughter
  - Inherited from parents : Same as above
  - Inherited from Inlaws :Same as above
-





# **Myth Busters**

## **1. Will needs to be registered / on Stamp Paper :**

- There is no statutory requirement to register a WILL, though it is re-commendatory.
- A registered WILL can be superseded by an Unregistered WILL
- Will need not be written on a stamp paper, one can write on plain paper also.





## **2. I have appointed "Nominee". Do I Need Will?**

- **WILL prevails over Nomination [Sipra Sengupta Vs. Mridul Sengupta(SC)]**
- **Nominee may or may not be the legal heir.**
- **They are just caretaker of the wealth till the time it passes on to the legal heir.**
- **In case a person dies without WILL, the nominee has to pass on the assets to the legal heirs as determined by law.**





### **3. I have Joint Holders, Do i need Will?**

- **Either or Survivor - Can transact along with 1st Holder.**
- **Former or Survivor - Can transact only after 1st Holder dies.**
- **Joint Holder is not Beneficial Owner.**
- **Ownership remains with Beneficiaries under WILL or Legal Heirs under the Act**

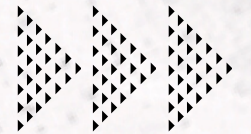




#### **4. Too early to make WILL**

- Expiry date is not mentioned.
- Individual Family concept and society getting westernize.
- Rise in young deaths in India.
- As soon as one starts earning and have dependent, he/she should consider making WILL





## **5. What if I change my mind?**

- You can revisit your WILL in case you have changed your mind, any number of time.
- For minor changes you can make "Codicil" and for major changes you can make a new WILL.
- The latest WILL is valid and supersedes all existing WILL.
- It is advisable to revisit your WILL at least once in 3 year.





## **6. Why Will - I can Gift?**

- Immediate relinquishment of right in property
- Stamp Duty
- Gift are generally irrevocable
- Tax Implication





## **6.Why Will - I can Gift?**

- Immediate relinquishment of right in property
- Stamp Duty
- Gift are generally irrevocable
- Tax Implication

## **Singhanian Vs. Singhanian**

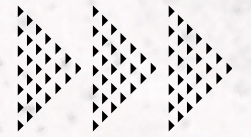
Vijaypath Singhanian, the man known for making Raymonds a household name accross the country is reduced to hand to mouth existence.

He gifted his 37% stake in Raymonds Ltd worth Rs. 1000 Cr. to his son Gautam Singhanian in 2015.

"In the 79 years of my life, I'd never thought I would have to take a family dispute to court after giving away everything I had and that I wouldn't even have a roof over my head," Mr Singhanian told NDTV.

---





## **HUF Assets**

- One can bequeath his/her share in HUF through will.
- Whole HUF property can not be bequeathed.
- It can be given to any relative or non relative.
- On death his share is freezed and is distributed as and when the partition take place.

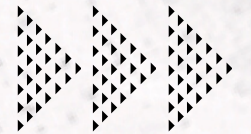




## **TRUST**

- **Help avoid Estate Duty.**
  - **Reduce Succession disputes.**
  - **No need of obtaining Probate.**
  - **Complete Control during Lifetime and after death also.**
  - **Useful if beneficiary is minor / physically or mentally challenged**
-





# Will vs Trust

## Factors:

- Takes Effect
- Probate/Dispute/Litigation
- Control After Death
- Possible during Lifetime
- Estate Duty Saver
- Wealth Planning for minor beneficiary

## Will:

- On Death
- Yes
- No
- No
- No
- To certain extent

## Trust:

- Immediately or on Death.
- No
- Yes
- Yes
- Yes
- Yes





## **Few Tips....to avoid litigation:**

- **Keep your WILL at a safe place. You can share with family that you have made a WILL.**
  - **Share the place of storage with Executor only.**
  - **Sign WILL in presence of Witness.**
  - **Attach Doctor's certificate about your physical and mental fitness.**
  - **Mention that this WILL supersedes all the existing WILL made on.....**
  - **Video Recording**
-





## **How to write a Will:**

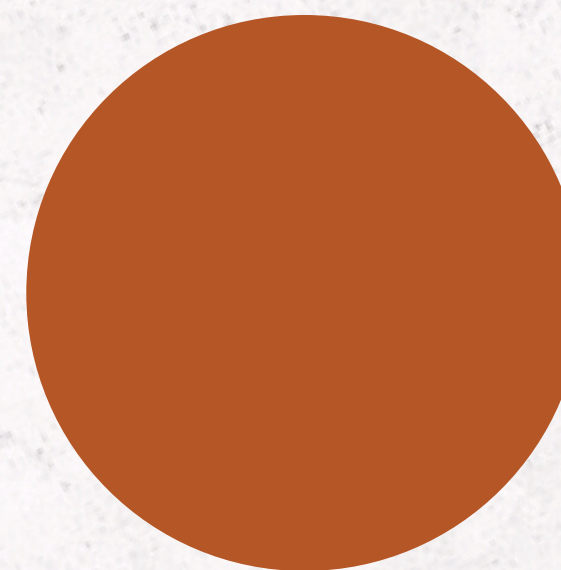
- Date of writing will
  - Personal Details
  - Declaration of sound mind and good health ( Doctor's Certificate )
  - Last will and revoke all existing will
  - Executor Details
  - Beneficiary Details
  - Assets Details mentioning beneficiary against each asset
  - Contingent Beneficiary
  - Non Beneficiary
  - Special condition
  - General Declarations & Protective Clauses
  - Witness and testator signing
-



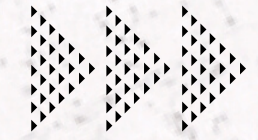
- ○ ○
- ○
- 



**Let's Get Started:**  
**Step 1: Gather all the Information that a Family**  
**Should Know in one Place.**



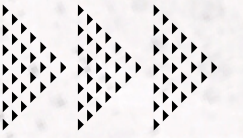




## **Two kinds of Information:**

- 1. Sensitive Financial Information**
- 2. General Information for regular and emergency purposes**

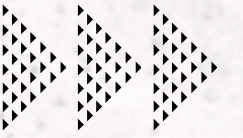




## **Sensitive Financial Information**

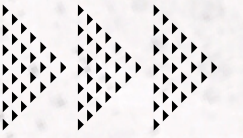
- **Details of all Vehicles owned-** Name , Registration no., Insurance details, loan details
  - **Family Tax Consultant**
  - **Insurance Agent**
  - **Stock Broker**
  - **Mutual Fund Consultants**
  - **Any other Consultants** Whose services are being taken for managing family investments and financials
  - **Bank Account Details-** of all family members, sole proprietorship, partnerships, online userids and passwords
-





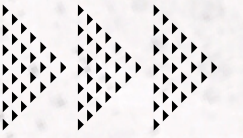
- **Bank Lockers , FD , RD**
  - **Electronic Money Details** like Credit Cards , Debit Cards , ATM Cards , Wallets like Paytm etc , UPIs/ Google Pay- name, DOB, Expiry Dt, CVV etc
  - **Medical and Life Insurance:** Check if everyone has one, illness covered, critical illness covered, place of original docs
  - **Immovable Property** : Joint Holders, Nominees, Original Papers, Loans, Mortgage, Lease, Tenancy etc
  - **Liquid Investments:** DP Account details, User IDs and Passwords, Details of Securities, Debentures , Mutual Funds etc
-





- **Details of Debtors and Creditors:** detailed info, original documents , debtors do not surface
- **Liabilities** - Creditors, Loans etc.
- **Nominations:** Everywhere , Who is the nominee
- **Guardian Appointment** for Minor Children, Dependents, pets - speak about it to the family , discuss, educate kids, make valid documents
- **POA and WILL:** Very Crucial

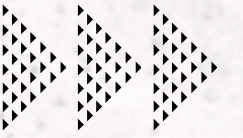




## **General Information for Regular and Emergency Purposes**

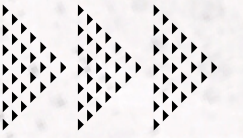
- **Family Doctor**
  - **Specialized Doctor**
  - **Doctor on call preferably from your area**
  - **Ambulance Services**
  - **Urgent Medicine Delivery** preferable if a Chemist from your area can do it
  - **Document Details:** Passport , Driving License , Aadhar Card , Vaccination Card , PAN Card , Credit Cards/ Debit Cards/ATM Cards ,Election ID Card, Club Memberships, Professional Forum Memberships - all should be in sync
-





- **Details of all important people to contact in case of emergency**
- **User IDs and Passwords**
- **Booking process, details and complaint registration for LPG Gas Booking, CESC, Electric Appliances, Landlines**
- **Wi fi details**
- **Details of all close contacts of kids**





## **HOW?**

- In Excel Sheet , Password Protected, Upload on Google Drive , Share with family , Real time updation
- Passwords - Be Smart, Learn from Aarya
- Place of Storage of all Physical Documents: Storage according to importance and use
- Scan all documents and keep a copy

**Last But Not The Least:  
TALK TO YOUR FAMILY!  
TAKE BABY STEPS!  
DO A DRY RUN!**

---



# Thank you



dilsewill.com

**LABH & ASSOCIATES**  
Chartered Accountants

[www.labhassociates.co.in](http://www.labhassociates.co.in)

**CHESSY**  
Excellence in Services