

**Where
there is a
“Will”
there is a
way**



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Managing Partner

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Founder and
Chairman



Agenda

In this PPT
We will discuss -

- Need of a Will
- Case studies
- Types of Assets
- What my family should know?
- What is a Will?
- Eligibility to make a Will
- Parties to the Will and what if there is no Will?
- Process to make a Will
- Why a Will is needed
- Make a foolproof Will to avoid future controversies
- Witnesses are crucial for a foolproof Will
- Case Study

Need of a Will



Reliance Industries Limited



Dhirubhai
Ambani



Mukesh
Ambani
(Son)

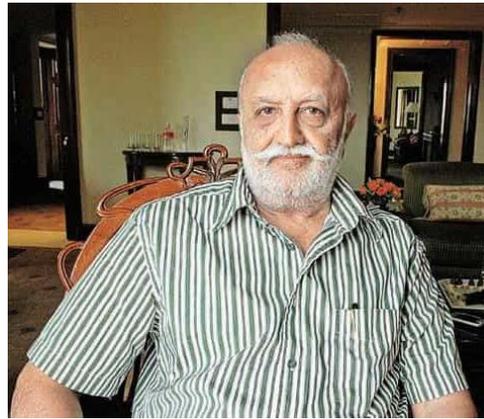


Anil Ambani
(Son)



Kokilaben
Ambani
(Wife)

Raymond Limited

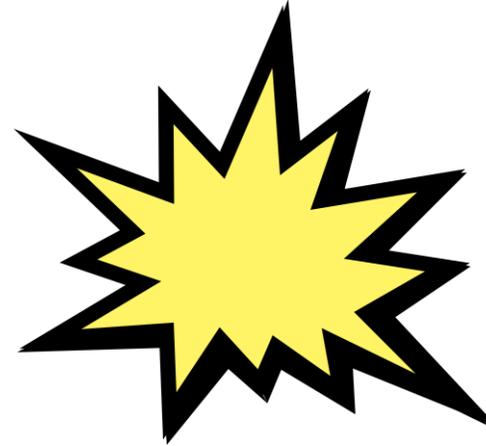


Vijaypat
Singhania

Gautam
Singhania
(Son)



Madhupati
Singhania
(Son)



Children of
Madhupati
Singhania



What my family should know?

- Location of important documents including will, insurance policies, investment papers, power of attorney, property records, agreements, certificates
- PAN, Aadhaar, Passport, Voter ID, Ration card
- Details of LIC Policy, Mediclaim Policy, Vehicle Insurance policy
- Details of bank accounts/ bank lockers
- Details of fixed deposits, recurring deposits
- Details of investment in shares, debentures, bonds, mutual funds
- Details of Public Provident Fund, Pension Account
- Details of Debit/ Credit cards
- Details of loan receivables/ payables



What is a “Will” ?

As per Section 2(h) of the Indian Succession Act, 1925, a ‘Will’ is defined as:

A ‘Will’ is a legal document by an individual, for bequeathing the property owned by him/ her to his/ her loved ones.

‘a legal declaration of the intention of a person with respect to his property, which he desires to take effect after his death.’

It takes effect after the death of the maker of the will.

It helps in deciding – who gets what – after death of the maker.



Types of Assets in a Will

- ❖ Immovable Property
- ❖ Bank Account
- ❖ Fixed Deposit/Bonds etc.
- ❖ Bank Locker
- ❖ Bullion and jewellery
- ❖ LIC policy/ Family pension
- ❖ Social media accounts and income
- ❖ Personal effects
- ❖ Shares/Demat Account
- ❖ Library
- ❖ Intellectual Property and Tenancy Rights
- ❖ Antiques, archaeological collection, drawings, paintings, sculptures or any other work of art
- ❖ Control/Controlling interest in business
- ❖ Foreign assets/currency
- ❖ Rights/ Obligations in Derivatives
- ❖ Position in trust or NGO's
- ❖ Share in Partnership/LLP/HUF
- ❖ Share in professional firm E.g., CA firm
- ❖ Tenancy Rights in property

Eligibility to make a “Will”

Making a Will

Who CAN

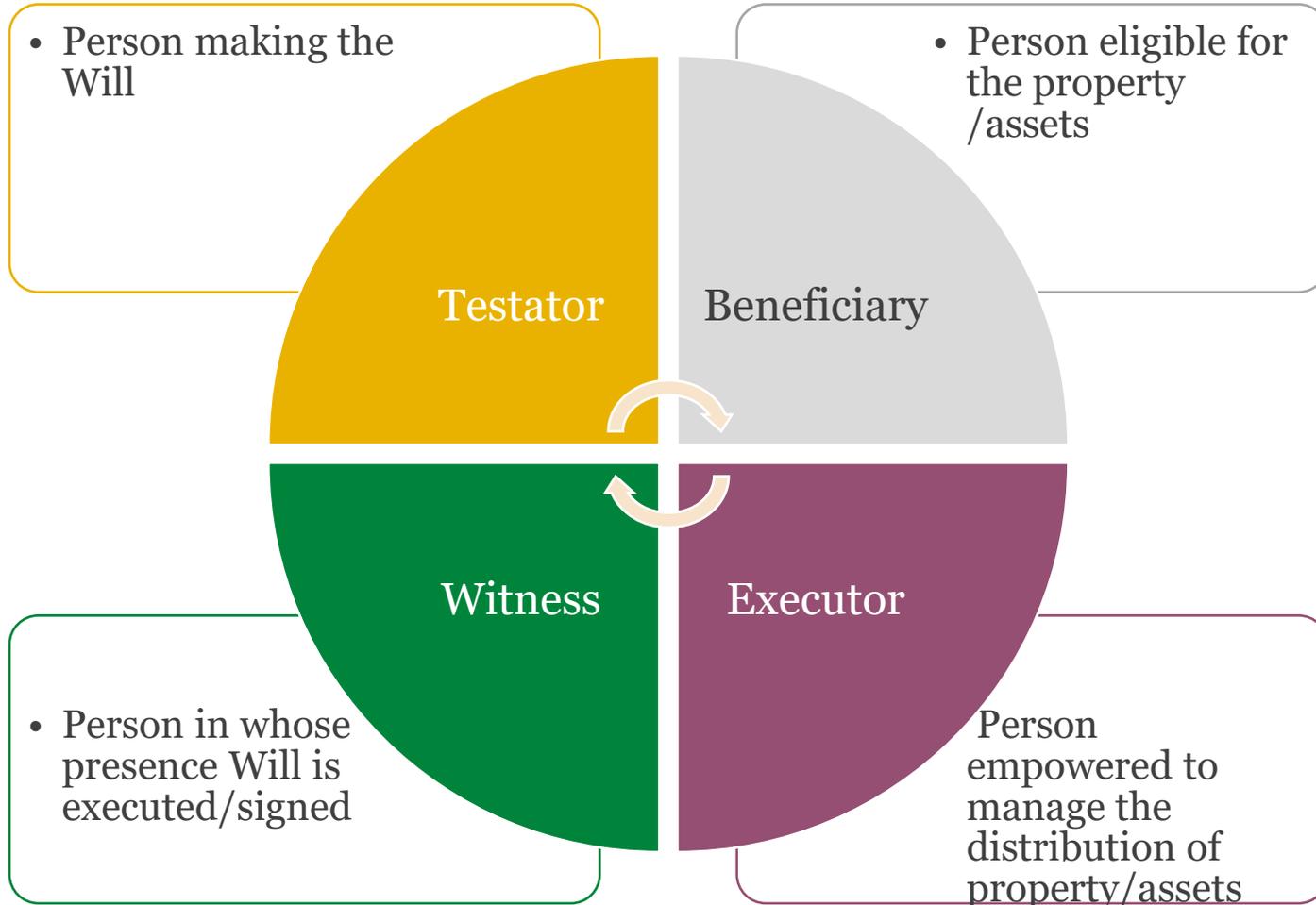
- Person of a sound mind;
- Owner of the property/ asset;
- A major (at least 18 years of age) while making the ‘Will’;
- A deaf/ dumb/ blind individual who is not incapacitated from making a ‘Will’ (*if he/she knows what he/she is doing*)

Who CANNOT

- An individual who is **intoxicated** to the level that it hampers his/ her comprehension
- An individual who is **ill** to such an extent that it hampers his/ her comprehension
- A corporate body
- An individual under undue influence/ fraud/ coercion while making the ‘Will’ (though subjective)



Parties to the “Will”



What if there is no “Will” ?

If there is no ‘Will’ (“intestate succession”), then in case of:

- Hindus, the **Hindu Succession Act, 1956** would apply.

- Non-Hindus, the **Indian Succession Act, 1925** would apply.

- Muslims, their **personal laws** (not codified) will apply.

Process to make a “Will”

- Voluntary declaration by the testator
- Details of the testator and the property/ assets to be included in the will

- Include the details of:
- the ownership of the property/ assets;
 - beneficiary;
 - the place to store the ‘Will’ till the death of the testator

- Attestation of the ‘Will’ in the presence of two Witnesses
- Registering the ‘Will’ (not compulsory), with Registrar or Sub-Registrar of proper jurisdiction

Subject matter of a “Will”

‘Will’ can be made in respect of both ancestral and self acquired property.

The whole or part of the ancestral property which has come to share of the testator can be bequeathed by way of ‘Will’.

Any and all types of properties (*movable, immovable, tangible, intangible, IPR’s, bank balance, cash, securities, etc.*), as defined under Transfer of Property Act, 1882.

Why a “Will” is needed?

I am not rich and wealthy. Do I need a “Will”?
The answer is Yes. --- Why?

Because –

1. It decides the inheritors and their respective rights over the property

2. It lets you choose the executor/ guardian



3. It eases down the management of property

4. It avoids family dispute



5. It ensures care of your minor children

6. It allows you to distribute for charity

8. It provides peace of mind!

7. It saves time, money, and stress for your loved ones



Make a foolproof Will to avoid future controversies

There must be a declaration of an intention with respect to the testator's property.

The date should be correct, and the words used should not be ambiguous.

Clearly set out the properties intended to be transferred.

Clearly set out that the document has been executed without coercion or undue influence.

'N' number of 'Wills' can be made by the Testator but only the last and final 'Will' shall supersede and prevail.

Keep updating the Will. If there are too many corrections in the 'Will', rather than executing Codicil, it is advisable to make a 'New Will' to obviate any controversy or dispute.

Register the 'Will' as it adds to the genuineness of the 'Will' and also proving a 'Will' in case of dispute becomes easy. There is only a small registration fee to be paid and no stamp duty required.

Witnesses are crucial for a foolproof Will

Minimum two witnesses are required so that if one gets hostile, the other could be used to prove execution of 'Will'.

The attesting witnesses should be independent and not directly or indirectly interested in the property/ assets which are subject matter of the 'Will'.

Attesting witnesses should be one who are willing to come to the Court and give testimony in case the need arises.

The witnesses appointed should be easily accessible, in case of a dispute in the 'Will'

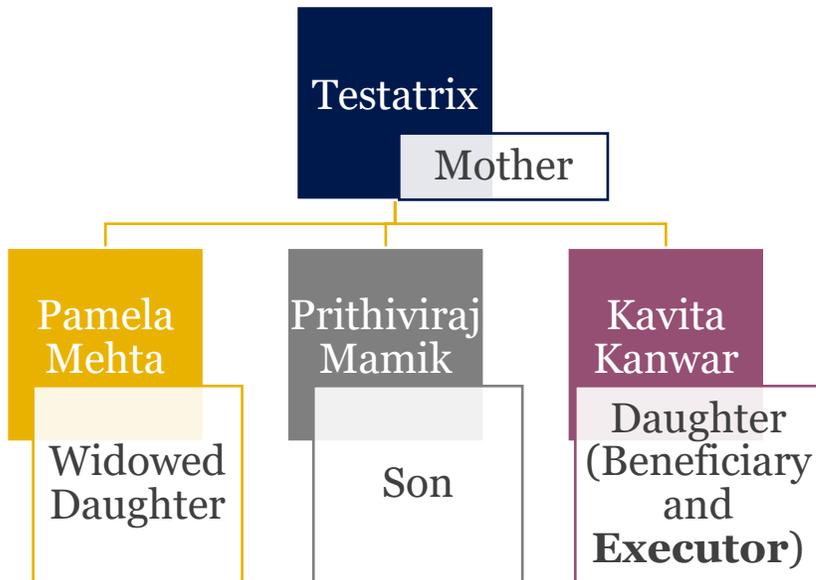
A beneficiary should not be an attesting witness as Will is void qua a beneficiary who is an attesting witness. However, it doesn't affect the rest of the Will and it does not become invalid per se.

It is good to have close friends or neighbours as attesting witnesses.

Case Study

Kavita Kanwar v. Mrs. Pamela Mehta & Others

Family Structure:



Facts of the case

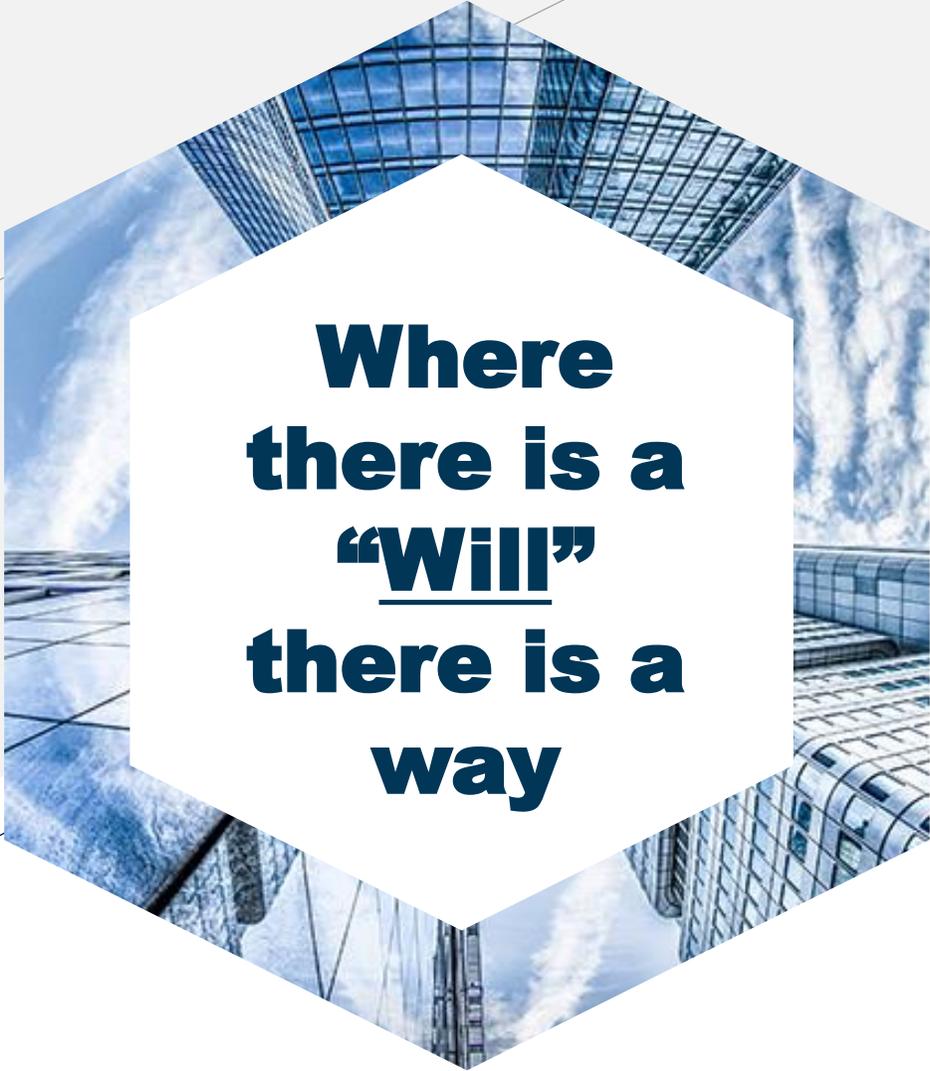
- The executor filed for probate which was refused due to following suspicious circumstances surrounding the Will:-
- Active role in execution of the Will played by Executor but attempted to conceal this fact
- Undisclosed 3rd page of Will
- Sound mind of testatrix
- Proof that Testatrix understood the Will
- Use of legal & technical words
- Attesting witnesses were unreliable

Judgement

- Thick clouds of suspicious circumstances are hovering over the Will which have not been cleared
- Every suspicious circumstance is confounded by another and the curious case of the alleged third page of the Will effectively demolishes the case of the Executor.

Takeaways

- While preparing a Will, acquire a proof of sound mind of the Testator
- Attesting witnesses must be reliable
- Get the Will registered
- Avoid technical words / jargons



**Where
there is a
“Will”
there is a
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Thank You.



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