

The nitty-gritty of writing a Will during a lockdown

MoneyControl • Apr 09, 2020 09:42 AM IST

By Nikhil Walavalkar

Mention all your wishes and how the assets and liabilities need to be distributed



Among the many actions that the COVID-19 pandemic is prompting of people, there is a rise in demand for Will writing services at this juncture. It is [prudent to write a Will](#), if you think that your assets should reach the right hands. A process-driven approach works while writing an effective Will.

What you own and owe

Make a list of assets and liabilities before you start writing a Will. Your assets could be physical – house, jewellery, cash – or financial – mutual funds, equity shares, intellectual property rights and so on. For the financial assets you should ideally use the monthly statement you receive on email. It [captures details](#) of your demat account and mutual fund folios.

But before using your Will to distribute your assets, the underlying assets have to pay off your debts and taxes due. These are typically your home loan, credit card outstanding or income tax dues.

“You should clearly specify in your Will how your liabilities need to be paid – will they be paid out of total assets or by those who are going to get the assets,” says Gaurav Mashruwala, a certified financial planner. For example, you may choose between paying your home loans out of your total assets or you may choose to ask your son to repay it, since you are giving him the house.

Many a time, Indians buy homes in jointly – usually with the spouse. “The testator (the person writing the Will) must understand that she can only give what she owns,” says Neha Pathak, head trust and estate planning, Motilal Oswal Private Wealth Management. For example, if a wife owns a house with her husband jointly, then she can bequeath only her share in the house, not the entire house.

You may have appointed a nominee for an asset, which you actually intend to pass on to someone else. As per the Will, the beneficiary should get control of a particular asset. However, the nominee may take legal recourse, which may consume time and money. To avoid such a situation, make the Will’s beneficiary the nominee at the first available opportunity across your assets.

Choosing the right executor

In times of a lockdown, appointing an executor – the person who will put the terms of your Will into action – may be challenging. Ideally, choose a person younger than you as the executor to your will.

An executor need not be physically present at the time of you signing the Will. Witnesses, however, need to be physically present at the time of writing the Will. These two witnesses will endorse that you have written and signed the Will under no influence or coercion and that the Will is a creation of your free and sound mind. To reduce the chance of litigation in future, you should also arrange for a ‘fitness certificate’ from a doctor.

The witnesses and the doctor should not be beneficiaries of the Will.

In a lockdown, getting witnesses will be tough. But you can convince trustworthy neighbours or relatives living nearby to appear as witnesses.

Writing your Will

A plain piece of paper is good enough to write a Will. There is no need for a stamp paper. The Will can be handwritten or typed. You can also get it written by a lawyer. You can also look at online Will writing facilities. Most of these facilities offer Wills in English. “If the language used in the Will is not understood by the testator, then he/she should state at the beginning of the

Will that its contents have been explained to him/her by a person he/she trusts,” says Rajat Dutta, Founder & Initiator, Inheritance Needs Services.

Mention all your wishes and how the assets and liabilities need to be dealt with. If there are beneficiaries who are ‘minor’, then do appoint a guardian.

While writing the Will, be elaborate and do not leave any scope for ambiguity. Name the specific asset and its beneficiary.

If you do not want to give a share of your assets to one of your children or a close relative, state it clearly to avoid litigation. You need not specify the reasons why you want to do so. “Leave no scope for ambiguity in your Will. As the contents are known only after the demise of the writer, it cannot be justified by the maker after his/her death,” says Dutta.

After you write the Will, you can also [make a video](#) of you actually signing the will. The Will must be have the date and place of signing mentioned in it.

What after signing

The estate planning process does not end with the signing of the Will. “It is advisable to register your Will, especially if you want to bequeath real estate,” says Mashruwala. However, registration of the Will is not mandatory, he quickly adds. You will have to wait till the COVID-19 pandemic abates and the situation comes back to normalcy to register the Will. Keep your Will in a safe place. Inform your family about its whereabouts. You need not tell them about its contents.

“Be prepared to review your Will every two years,” says Pathak.

Your Will is an important instrument in your financial plan. It ensures that your wealth gets transferred to the right hands when you are not around.