

**Weblink:** <https://www.moneycontrol.com/news/business/personal-finance/made-multiple-wills-dont-make-the-mistake-that-aretha-franklin-did-10939981.html>

**Headline: Made multiple wills? Don't make the mistake that Aretha Franklin did**

**Strap:** *Months after the soul singer passed away in 2018, two wills were found in her house with different instructions on how her assets and money should be given away to her children. As a result, her children are now in court. This has lessons for us.*

Hiral Thanawala

When American singer Aretha Franklin passed away in August 2018 aged 76, it was initially thought she had not left behind a will. But months later, two wills were found from two corners of her house.

One will was dated March 2014 and the other was of June 2010. The mother of four had assigned beneficiaries and executors differently in both wills and the matter went to court.

The hearings began on July 10 to determine which of the two wills would be legally accepted – the earlier one that is said to have been notarised or the later one, which didn't appear to be attested, as per reports. Both wills were handwritten.

The question is: If you leave behind multiple wills, which would be held legal and which would be invalid? Also, can you make multiple wills?

### **Stamp paper or plain paper?**

Handwritten wills are legal in India.

“But it is better to have a proper, typed will as sometimes the handwriting may not be legible or the ink may fade away over a period,” said Shailendra Dubey, a partner at PlanMyEstate Advisors.

Also, it's easier to tamper with a handwritten will than it is a typed will. It's not mandatory for the will to be written on stamp paper or notarised.

“Though a notarised will may have more credence if the matter is contested in court,” said Dubey.

In the case of multiple wills, if the earlier will is notarised and the latest one is merely handwritten, which would be considered valid?

“If, in the handwritten will, it is mentioned that the earlier notarised will is revoked, then the latest handwritten will take precedence,” said Tushar Agarwal, an advocate in the Supreme Court of India.

If there is no mention of revocation in the latest will, then the court will decide the genuineness of the will, he said. Mere notarisation of an earlier will does not invalidate a handwritten will.

There’s one more important condition for making a will.

“On the date of signing (the date has to be mentioned), the testator (the person who has made the will) must be capacitated to contract, i.e., above 18 years of age and of sound mind. Also, there shouldn’t be any pressure on the testator to sign the will,” said Rajat Dutta, founder of Inheritance Needs Services.

### **The problem of multiple wills**

Under Indian law, a person can make a will and amend it as many times as desired, either by creating an amendment (referred to as Codicil) or writing out an altogether new will that supersedes the earlier one.

“Therefore, in case of multiple wills dealing with the same property, only the last dated will is likely to take precedence and be relied upon by a court,” said Narendra Dingankar, a partner at Pioneer Legal.

So, each will should mention the date of execution (when it is written) so that there is no confusion about which takes precedence.

“For a will to be valid, it must clearly provide a reference to the previous will(s) that are being replaced or being superseded by the current will,” said Dutta.

Further, including the dates of previous documents that stand revoked will add greater clarity, helping to avoid disputes on such grounds.

Dingankar said multiple wills can only invite more challenges to validity.

### **When two wills are legally valid**

In case of offshore assets, one can consider writing a separate will in keeping with the laws of the country where they are held.

Sneha Makhija, head of wealth planning, products & solutions at Sanctum Wealth, said if multiple wills are created for assets in different countries, then both wills are valid, even if they were written on separate days. But it must be stated clearly in the wills why both are valid and what purpose they serve to clearly mark their uniqueness and therefore their co-existence.

“Another instance is after making a particular will, if the person has acquired new properties, then a separate will can be made for these newly acquired properties and both the wills would exist and operate together,” said Abhishek Mathur, a partner at Luthra and Luthra Law Offices India.

### **Who can contest a will?**

If a deceased person leaves behind multiple wills, various parties may have the right to contest them.

“The specific individuals who can contest a will may vary, depending on the laws of the jurisdiction where the will is being probated or administered,” said Sameer Jain, managing partner of PSL Advocates & Solicitors.

In this situation, the parties who can contest the wills include the beneficiaries, heirs, executors, creditors and other legal representatives.

“A will can only be contested on technical grounds to prove the same to be dubious or fake or forged,” said Dutta.

A will cannot be challenged on the share bequeathed to a beneficiary.