



## **Executor of Will**

Person making a WILL many a times has doubts over uncertainties of future, like:

- Whether my properties will be distributed as per my WILL?
- Whether there would be any injustice or manipulation by 'smart family members' to deprive rights of other family members?
- Whether family members will have required knowledge of distribution of properties as per law to avoid disputes within family, or else what is the purpose of making a WILL?

To answer these doubts / questions – there is an option to appoint an Executor who act as Umpire or Trustee to take all required actions as per wishes mentioned in a Will for property bequeath. Such Executor can be any person to whom you have utmost faith, who will not misuse his/her powers, act smartly to distribute properties within minimum time and with least hassles/ taxes/expenses.

One can appoint any person as Executor whose name is mentioned in a WILL as Executor, even an alternate Executor can be appointed in a WILL who can act as Executor if main Executor is died or has in-capacity to execute WILL. The Executor can be spouse, relative, friend, neighbor, lawyer, family advisor, professional company like SBI Capital Trusteeship, WillJini.com, etc.

Following few Tips to be considered when you appoint an Executor:

- Normally a spouse or trusted family member would be chosen as an executor.
- You should keep in mind over time that circumstances change, and your chosen executor may no longer be able to handle an executor's duties due to death, illness or other changing circumstances. To deal with this, you should also consider appointing alternate executors (possibly more than one) in your Indian will.
- If you don't have someone you feel comfortable with acting as an executor, you can also choose a legal professional or a company that specializes in this.
- A person appointed as an executor by a will, cannot be burdened with the duties and obligations of an executor, if he has not accepted the office of the executor. If an executor mismanages estate funds and this results in a loss for the beneficiaries, the executor can be found personally liable, so it is important to know that a person named as an executor does have the right to refuse the position.
- It is not necessary to show WILL to executor or to inform in advance that you have made a Will and you have appointed him as Executor. However, it is recommended these to an Executor or even keep original or copy with Executor.

## Powers and Duties of Executor

Executor has powers to (i) sue on behalf of the deceased testator (ii) dispose of the property of the deceased testator in accordance with his wishes (iii) incur expenses for the management of the properties or the estate of the deceased until its disposal. Choosing an executor is one of the first things you need to do before writing a will. You need to be very careful in your choosing an executor, as an executor is someone you need to trust completely and who must be able to handle the large responsibilities of handling your affairs.

An executor in India has numerous responsibilities, and these include, but are not limited to

- Ascertain the whereabouts of the Will.
- Do the funeral arrangements of the deceased and paying for funeral from the assets of the deceased;
- Registering the death of the deceased and informing all concerned;
- Filing probate, proving his identity, and establishing his authenticity;
- Paying the debts of the deceased;
- Caring for the property of the deceased until it is sold or given to the beneficiaries of the deceased;
- Dealing with any legal procedures;
- Locating the beneficiaries of the deceased;
- Distributing the assets of the estate of the deceased to his beneficiaries;
- Record keeping of all transactions;
- Submitting receipts to the court;
- Prepare and submit tax returns for inheritance tax and other taxes ensuring that all appropriate allowances, reliefs and write downs are applied for. and
- Taking other legal and financial responsibility for the administration of the estate of the deceased.