



WILLJINI

PROBATE



WHAT IS A PROBATE?

- A Probate is a copy of the Will certified under the seal of the court of competent jurisdiction.
- It is nothing but a decree passed by a competent court declaring the legality/correctness and genuineness of the Will of the deceased
- It is the official evidence of the executor's right to administer the estate of the deceased person.

TO WHOM PROBATE CAN BE GRANTED?

- A Probate can be granted only to the executor mentioned under a Will.
- In the absence of the Executor being named in the Will, the Legatees or the Beneficiaries under the Will could also seek probate of the Will.
- In case no executor is mentioned or one refuses to be the executor, then an application needs to be made to the court for appointment of an executor before the application for a probate.
- It cannot be granted to any person who is a minor or is of unsound mind, nor to any association of individuals unless it is a company satisfies the conditions prescribed by the rules made by the State Government.

WHY PROBATE IS IMPORTANT?

- It authenticates the validity of the Will.
- It is the conclusive evidence of the due execution of the will and of the testamentary capacity of the testator.
- It gives authority to the executor of the Will to distribute the estate as per the Will.
- In case of various nominees they can hold the assets in trust until they are divided as per Will after a probate is obtained.
- Probate is a must when the Will is for immovable assets.

STEPS TO OBTAIN A PROBATE?

- Application for probate has to be made to the competent court alongwith the Will in question through a lawyer.
- It should contain the following details:
 - the time of the testator's death
 - copy of the last Will of the deceased testator.
 - total amount of assets which are likely to come to the petitioner's hand.
 - the petitioner is the executor mentioned in the Will

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STEPS TO OBTAIN A PROBATE?

- The application for probate shall be signed and verified by the executor or beneficiary
- The petitioner shall furnish a blank stamp paper of value equal to the requisite court fee, along with the application.
- The court shall grant the probate on the said stamp paper.
- After receipt of the petition, the court issues notice to the next of kin of the deceased to file their objections, if any, to the grant of probate.
- A general public notice is also given in a newspaper.

ISSUE OF PROBATE BY THE COURT

- The court may impose a percentage of assets as a fee to issue a probate.
- In case such a petition is contested, it will be converted into a regular suit and upon contest the same will be disposed off, by delivering the judgment and decree, in accordance with law.
- On the satisfaction that the will in question has been validly executed, the court will grant probate to the executor named in the will.

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