



**If you are an NRI (Non-Resident Indian) – Please read this page before you proceed to write your Will:**

As an individual you may be holding movable and/or immovable properties at country where you are residing presently as well as in India. So technically you need to prepare Will which is legal for both countries as per respective succession laws and accordingly you may have to prepare two separate Wills, one Will for your properties in India and other Will for properties in the country where you are residing presently. We wish to educate a very basic understanding for the cross-country law in succession so that your Will decisions are in line with applicable laws and your legal heirs get properties smoothly as per your wishes. This may take just 5 minutes of your to read and understand.

You may note that Succession Laws are 'Country-specific' and also depend upon:

- Country of your Domicile,
- Place of resident when died,
- Location of immovable properties,
- Location of Movable properties
- Whether country of your domicile has Forced Heirship laws or Community Property laws

We strongly recommend you to prepare a separate Will as per Indian laws if:

1. You own any immovable property in India (like flat, shop, land, building, bungalow, kothi etc.) as ownership or member of HUF or as share in ancestral property.
2. You own many movable properties in India and abroad and you are domiciled in India as you desire to stay permanently in India, though you hold citizenship of other country.

You may want to understand basic reasons for same. When any NRI (male or female) write a Will, please note:

1. If you hold any **immovable property in India** (like flat, shop, land, building, bungalow, kothi etc.) as ownership or member of HUF or as share in ancestral property, such property can be bequeathed only if your Will meets with the Indian laws, hence it is advisable to prepare a separate Will as per Indian succession laws. If there is no proper Will available, such properties to be bequeathed as intestate ('No-Will') situation.
2. If you own any **immovable property in country other than India**, the laws of Succession applicable in that country will apply hence ideally a separate Will can be prepared even for those properties.
3. If you own any **movable property** (shares, bank account, demat account, insurance policies etc.), such properties can be bequeathed as per Succession Law of country where NRI is **domiciled at the time of death**.
4. **Domicile** should not be confused with citizenship or residency. Citizenship means that a person belongs to a particular country and Residency means that a person is staying in a country for prescribed time to determine his status as a resident. Domicile, on the other hand, is a combination of the fact of residence in a particular place, coupled with the **desire to reside there permanently or indefinitely**. Domicile is of two types –



- a. Domicile of origin – A domicile of origin is the one with which a person is born.
  - b. Domicile of choice – A domicile of choice is a self-acquired domicile. It is a domicile which a person chooses to replace his/her former domicile, which may be either a domicile of origin or domicile of choice. Only a legally competent person can choose his/her domicile. A person can remain domiciled in a jurisdiction even after he has left it, if he has maintained sufficient links with that jurisdiction or has not displayed an intention to leave permanently.
5. **Forced Heirship** - Some countries have forced heirship rules under which a certain portion of the estate of the deceased must pass to his/her spouse, child or parent. The remaining portion of the estate can be disposed under a Will. A person cannot dispose of his entire 100% estate through a Will. This provides a minimum protection to family members that cannot be defeated by a Will. Some countries where forced heirship rule applies are France, Saudi Arabia, Japan, Scotland, Islamic communities, Belgium, Cyprus, Germany, Italy, the Netherlands, Portugal, Spain and Sweden.
6. **Community Property**- Some countries also have rules for community property. It provides that most property acquired during the marriage (except for gifts or inheritances) is owned jointly by both spouses and is divided equally upon divorce, annulment, or death. Joint ownership is automatically presumed by law in the absence of specific evidence that would point to a contrary conclusion for a particular piece of property. For example: In the United States there are nine community property states: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

If you are NRI (non-Muslim) and write a Will outside India for properties situated in India, you need to follow following procedure:

- a. Your Indian Will can cover only immovable properties situated in India.
- b. If you are domiciled in India at the time of demise or if the country of your domicile does not impose any testamentary restrictions, your movable properties can be included under your Will.
- c. As per Indian laws registration of a Will is not compulsory, hence a Will printed on a plain paper, signed by you and attested by two witnesses (alongwith Passport No. or Citizen ID) is a valid Will. However for better and smooth execution we strongly recommend to register your Will (after signed + witnessed) with the Indian Embassy in country of your resident as per process generally mentioned on respective country's Indian Embassy website. Alternatively, it may be notarised. Your legal Will is done. You are not required to visit India for Will signing or registration.

You may write an online Will or contact us for any customised services related to succession. For any further queries please contact [support@willjini.com](mailto:support@willjini.com)