

# Use a Codicil to make small changes to your Will

But in case you need to make major changes to the Will, write a new one

SARBAJEET K SEN

Have you written a 'Will' outlining the distribution of your assets after your death and now wish to make some changes amid the altered circumstances? Writing a new Will, video-recording it, destroying the old one and keeping the new Will at a safe place is a long process and most would want to avoid it. Isn't there an easier way out? Writing a Codicil could be.

A Codicil is a document created by the testator (creator of the Will) to make changes to an existing Will. "Codicil is not a substitution to a Will. It is an amendment and so it has to always be read along with the Will. It has to be signed by the testator and at least two witnesses. The witnesses cannot be beneficiaries of the Will or the Codicil," says Neha Pathak, senior group vice-president and head (trust and estate planning), Motilal Oswal Private Wealth Management. If a court declares a Will as void, the Codicils attached to it also become void.

A Codicil is typically used to make small changes. "If there is a change in the 'object matter' (asset to be bequeathed) or the 'subject matter' (change in recipient), then the testator can amend the original Will through a Codicil," says Rajat Dutta, founder and initiator, Inheritanceneeds.com.

## Procedure for drafting

The procedure for writing a Codicil is akin to the one for writing a Will. It should be signed by two witnesses. Video recording of the process would be ideal, though the law does not mandate it. Video recording helps prove that the Will and the Codicil were written by the testator of his own free will. Mention the intention behind writing it. The Codicil should clearly mention all the changes. In the first paragraph itself, it should state which Will it refers to. It should also mention the clause, paragraph or the object of the Will it intends to modify or delete. It should also clearly specify what it wants to add and where. Ambiguity must be avoided at all costs.

Dutta mentions that it is imperative that a Codicil has the following as the closure Clause: "In the event that any statement in this Codicil signed on \_\_ day of \_\_\_\_\_ contradicts the terms of my last Will and testament dated \_\_\_\_\_ (date of the Will replaced), the terms of this Codicil shall supersede. In all other respects, I reaffirm and republish

## WHEN TO CODICIL

- **If there is a birth in the family** and you want to apportion a share of your estate to the newborn
- **If a family member dies** and you want to allocate his share to someone else
- **If you have acquired a new asset**, such as a piece of land
- **To clarify any ambiguity in a Will.** For instance, if the testator bequeathed his land to his sons but did not mention which piece should go to which son

my last Will and testament dated \_\_\_\_\_ (date of the Will replaced)."

Like a Will, a Codicil also need not be registered. But if you have registered your Will, register your Codicil as well. "This will give greater authenticity to the Codicil and help avoid litigation. The entire purpose of registering a Will would stand defeated if the Will (part or full) is replaced by a Codicil that is unregistered," says Dutta.

## When to draft a new will

Codicils are best used to make small tweaks. If you are going to change your bequest altogether, consider writing a new Will — for example, if in the original Will, you decided to bequeath all your money to your sons and now want to give it to charity. This is a major change and needs a fresh Will.

Sometimes the beneficiaries remain the same but the testator wants to make drastic changes to their shares. In such a case, too, it makes sense to write a new Will.

If you have written many Codicils in the past or your estate has changed significantly, make a fresh Will. Too many Codicils can obstruct the smooth implementation of a Will, as the executor may find it cumbersome to put together all the wishes. "Multiple Codicils may lead to confusion among the beneficiaries and cause unnecessary disputes. If there are multiple Codicils, it is more meaningful to revoke the earlier Will and Codicils and create a fresh Will that includes all the amendments," says Pathak. He adds that the earlier Will and Codicil should be destroyed.

## YOUR MONEY

