



COMPARATIVE ANALYSIS OF WILL UNDER HINDU LAW AND MUSLIM LAW

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STATEMENT ABOUT THE PAPER

This research paper will deal with the concept of “will” and the origin of such concept among the Hindus and Muslims and laws which are present among them to make the concept effective and implicit, while also trying to find out any similarities or differences between the two laws through comparative analysis.

RESEARCH QUESTIONS

- 1) How is a “will” defined as per Indian law?
- 2) What are the general rules which are to be followed in making of a valid will as per the governed laws?
- 3) How the concept of will was introduced in the Hindu law?
- 4) How the concept of will was introduced in the Muslim law?
- 5) Whether there are any differences or similarities between the two?

RESEARCH OBJECTIVE AND SCOPE OF THE STUDY

The objectives of this research paper is to put light on the concept of “will” which is prevalent in the country. This paper further analyses the general rules to be kept in making the will a valid one and also talk about the concept of it under the Hindu and Muslim law respectively. Furthermore, to compare and analyse the two and point out the differences and similarities between the

two by quoting the relevant and leading case laws.

RESEARCH METHODOLOGY

The research methodology which is used while making this manuscript was the “Doctrinal Research Methodology”. The main base of a Doctrinal Research is, “What is the law in this case”. A doctrinal research an approach that has been done on a legal proposition or propositions through manner of analysing the prevailing statutory provisions, facts, instances and case laws with the aid of applying the reasoning power. This kind of approach is purely theoretical in nature that seeks to discover the “one correct answer” to certain legal issues or questions.

CHAPTERISATION

This research paper consists of four chapters. The first chapter deals with the general introduction to the topic and the scheme of the paper. The second chapter deals with the concept of will under the Hindu law, talking about the history and origins, the relevant act and the important sections and also the general guidelines of making it. The second chapter deals with the concept of will under the Muslim law, the origin, history and law behind it, the general rules which are to be followed and differences in will under the Shia law and Sunni law. The final chapter i.e. the fourth chapter puts forward the analysis of similarities and differences of the concept between the Hindu law and Muslim law and puts forward the conclusion of the research paper.

CHAPTER I- INTRODUCTION

A will (also known as a “testament”) is a document which is legally recognised by the court in which a person conveys how the property which belongs to him should be



distributed to other persons upon his death. The person who expresses his wish on such a document is called the “testator”, the person to whom the estate is given until the final distribution is called the “executor” and the person(s) who receives such a property or a share in it is called the “inheritor” or “beneficiary”. The will can be modified, revoked or substituted by the testator at any point of time during his/her life.¹

Even though a will is a legal document but it is not written in a prescribed form. It can either be typed or handwritten, be written on a stamp paper or not, etc. Any person of sound mind and a major is allowed to make a will. If an individual who is sane at the time of creating the will, such will is considered to be valid, a person should understand the result of his actions as well as the legal consequences at the time of making a will, etc.

As stated earlier there is no prescribed form of writing a will. It is also not compulsory to register it. It is on the discretion of the testator whether he wants to register or not. However, registering it would erase all the doubts and concern over its legality. The testator at the time of making the will has to state that the will is made by his/her free will and is of sound mind state. Then the executor and the testator must sign the will and two or more witnesses must also attest it and such a witness should not be a beneficiary of that will.

The will can be revoked and such a revocation can be voluntary or involuntary. Involuntary revocation is made by operation

of law. If a testator is married, then his will made previously stands revoked. Thus, for any subsequent marriage after the first one the will stands as revoked. Only that will which is executed prior to the death of the testator is enforceable.²

The essential characteristics of a will are-

- **IT IS A LEGAL DECLARATION-** *All those documents that claim to be a will must be legal i.e. they must adhere to the law and must be enforced by a person who is legally eligible to do so. It must include a declaration in respect to the concerned property and is legally binding on the family.*
- **DISPOSAL OF THE PROPERTY-** *A Hindu person can bequeath all his property by way of his will. However, the coparcenary interest cannot be passed on by any member of the undivided family.*
- **COMES INTO EFFECT AFTER THE DEATH-** *A will can come into force only after the death of the testator.*³

There are different types of wills in India. These are-

- **PRIVILEGED WILL-** *It is defined under Section 65 of Indian Succession Act, 1925 and states, “Any soldier being employed in an expedition or engaged in actual warfare, 1*[or an airman so employed or engaged,] or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a will made in the manner provided in section 66. Such wills are called privileged wills.”⁴ Section 66 tells for the way in which such will is made and rules for execution of a privileged will. The will may be oral or in writing, wholly or in part written by the testator, signed and attested or not by*

¹ Poonam Pradhan Saxena, Family Law Lectures Family Law II (4th edition).

² Poonam Pradhan Saxena, Ibid.

³ Sahil Shah, Supra 3(May. 02, 2020, 7:30 PM IST).

⁴ Section 65, Indian Succession Act, 1925.



the testator, be written as per his instructions after his death if will is still not written, may give instruction to two witnesses declaring his intention to prepare a will, etc.

- **UNPRIVILEGED WILL-** It is defined under Section 63 of the Indian Succession Act, 1925 and states, “Every testator, not being a soldier employed in an expedition or engaged in actual warfare, 12 [or an airman so employed or engaged,] or a mariner at sea, shall execute his will”⁵
- **CONDITIONAL/ CONTINGENT WILL-** It is a type of will which depends on happening or non- happening of an event which is not certain. The will may take effect or be defeated on such an event. If the happening of an event stated in a will is the reason for making the will, it is unconditional. But if the testator intends to dispose of his/her property in case the event happens, the will is conditional. In the case of Rajeshwar v. Sukhdeo⁶, sometimes it may be ambiguous whether the testator intends to make the will conditional or not, at that time the circumstances prevailing and the language of the document must be taken into consideration. It is provided under Section 120 of the Act.
- **JOINT WILL-** In the case of Kochu Govindan Kaimal v. Thayankoot Thekkot Lakshmi Amma and Ors.⁷, the joint will was defined by the SC as “ A joint will is a will made by two or more testators contained in a single document, duly executed by each testator, disposing either of their separate properties or of their joint property.”
- **MUTUAL WILL-** When two persons or more agree to make a will mutually, it is a mutual will. These are the wills which are generally

made by the spouses. The benefits are conferred by the testators on each other as they are reciprocals to each other. Hence, it is also known as a reciprocal will. It can be revoked during the lifetime of either of the testators. There are two or more wills which are mutually binding. After the death of a testator, the remaining surviving testator(s) have to dispose of the property as per the agreement.⁸

- **HOLOGRAPH WILL-** A will made in writing by the testator himself is a holograph will.
- **DUPLICATE WILL-** A duplicate will made by the testator for safekeeping with the agency, executor or bank.⁹
- **SHAM WILL-** A will executed but is held invalid as it is made against the intention or wishes of the testator. Generally made by way of coercion or fraud.

The will made by Hindu, Buddhist, Sikh or Jain is regulated and governed by the Indian Succession Act, 1925. The property of Mohammedans is disposed in accordance to the Quran and other sources.

CHAPTER II- WILL UNDER HINDU LAW

The origin and development of the concept of will among the Hindus is still unknown. On the other hand, the concept of will was already well established among the Mohammedans and later the contact with them first during their rule over India and later on further contact with the Europeans is considered to be the most apt reason for the introduction of “will” among the Hindus. After the introduction of such concept the

⁵ Section 63, Indian Succession Act, 1925

⁶ 1947 SCC ONLINE PAT 158.

⁷ AIR 1959 SC 71.

⁸ Sahil Shah, Supra 3 (May. 02, 2020, 10:30 PM IST).

⁹ *Types of Wills in India* (May. 03, 2020, 5:30 PM IST) <https://www.indiafilings.com/learn/types-wills-india/>



concept of formal testamentary instruments substituted the informal instruments. Only the will which is made by any Hindu, Buddhist, Sikh or Jain is regulated by the Indian Succession Act, 1925.

The definition of “will” is given under Section 2 (h) of Indian Succession Act, 1925 which provides that “*Will means the legal declaration of the intention of a person with respect to his property, which he desires to take effect after his death*”.¹⁰

The Indian Succession Act, 1925, provides for only two kinds of will- Privileged wills and Unprivileged wills.¹¹

According to Section 18 of the Registration Act, it is not compulsory to register a will. In the leading case law of *Narain Singh v. Kamla Devi*¹², it was held by the Supreme Court that through a mere non-registration of the will, an inference cannot be drawn against the genuine nature of it. However, it is advised to enlist the will as the registration provides for a solid lawful proof regarding its legitimacy. At the time of enrolment of the will, it is put in the protected authority of the Registrar and subsequently cannot be altered, wrecked, ruined or taken. The will, after registration can only be provided either to the testator, or after his death to a person who is authorized by producing the death certificate of the testator.

Section 59 of the Indian Succession Act, 1925 tells about the person who is capable of making wills. It states that, “every person who is of sound mind and not a minor may dispose the property through a will”¹³.

Generally, a will is made by an elderly and bed ridden person. Hence, as per “sound mind” the law does not expect a person to be fully fit, or is in a perfect health state, or is able to give instructions regarding the distribution of the property. The phrase “sound mind” means that the testator is able to understand that his property or object(s) is being distributed and also understands the persons among whom the property is being distributed and claim from those people who are excluded. In the landmark case of *Swifen v. Swifen*¹⁴, it was said that “*the testator must retain a degree of understanding to comprehend what he is doing, and have a volition or power of choice*”.

The word “minor” means any person who has not attained the age of 18 years and holds the same influence as under Section 12 of the Indian Contract Act, 1872.

The various explanations which are provided in Section 59 of the Indian Succession Act, 1925 provides for the other persons who are capable to prepare a will. Explanation I talks about a married women and that she may only dispose by will of any property which she could alienate by her own act during her life. Explanation II talks about those people who are dumb, blind or deaf can prepare a will if they are aware as to what they are doing and are aware of the consequences of such actions. Explanation III tells about those persons who are of unsound mind but at the time of making of will the person is sane then that will is deemed to be valid. However, a will is deemed to be invalid which is made by

¹⁰ Section 2 (h) of Indian Succession Act, 1925

¹¹ *Law of joint will Indian Personal Law Context* (May. 05, 2020, 5:30 PM IST) <https://www.lawteacher.net/study-guides/family-law/law-of-joint-will.php#citethis>.

¹² AIR 1954 SC 280.

¹³ Section 59, Indian Succession Act, 1925.

¹⁴ 1 F anf F 584.



a person who at the time of making it is either intoxicated or suffering from such a disease, because of which he is unable to understand and deduce his actions.¹⁵

Section 62 of ISA, 1925 provides for the revocation or alteration of it during the lifespan of the testator and Section 70 of the same act tells about the manner in which such a revocation is possible. The revocation should be real and not mere intentional. If a will is revoked, it should be in writing and there should be a clause stating that the prior will has been revoked. If the will is torn or burnt by the testator or any other person working on the directions of the testator, then it'll be considered to be revoke. However, the will must be burnt in its entirety. If another will or codicil is made post the original will, it will mean an implied revocation. If there is a following marriage or birth after making the will, it doesn't mean that the will is revoked.

Section 71 of ISA, 1925 provides for the alterations in the will. It states, "No obliteration, interlineation or other alteration made in any unprivileged Will after the execution thereof shall have any effect, except so far as the words or meaning of the Will have been thereby rendered illegible or undiscernible, unless such alteration has been executed in like manner as hereinbefore is required for the execution of the Will: Provided that the Will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses is made in the margin or on some other part of the Will opposite or near to such alteration, or at the foot or end of or opposite

to a memorandum referring to such alteration, and written at the end or some other part of the Will."¹⁶ It is clear that for any changes which is required to be made in the will, it should be made before the execution of the will and such changes should have the signature of the testator and be accompanied by the attesting witnesses. A memorandum can also be made by the testator and be signed by him. If such things are not considered at the time of making the changes, the changes would deemed to be invalid¹⁷.

The changes should be made in the will itself and be read as a part of the will, not separate or distinct from it. In the case of Balatharayutham and Another v. Ezilarasan¹⁸, "When the execution of a will asserted by one party is denied by the other party, then the burden is on the party who relies on the will to prove its execution. But when the execution of the will is not denied then no burden is cast on the party who relies on a will to prove its execution."

Section 74 of the act provides that the will can be made in any form and in any language. There need not to be any technical jargon in the making of the will. But if the technical words are present, they should be understood in a legal sense. The court should go by the manifest intention of the testator¹⁹. If by reading the will, two constructions are possible, then that construction which paves way for intestacy should be avoided. Also such construction which postpone the endowment of the property should also be avoided. In the case of Gnanambal Ammal

¹⁵ Ashish Gupta, *Rules governing transfer of property through Will*. (May 01, 2020, 4:00 PM IST) <https://economictimes.indiatimes.com/consumer-legal/rules-governing-transfer-of-property-through-will/slideshow/6180123.cms>.

¹⁶ Section 71, Indian Succession Act, 1925.

¹⁷ Lalitaben Jayantilal Popat v. Pragnaben Jamnadas Kataria & Ors. [2009 (1) Scale 328].

¹⁸ (2010) 5 SCC 770.

¹⁹ Nathu v. Debi Singh [AIR 1966 Punj 226].



v. T. Raju Aiyar²⁰, the SC held, “*the cardinal maxim to be observed by the Court in construing a Will is the intention of the testator. This intention is primarily to be gathered from the language of the document, which is to be read as a whole.*”

In the case of **Bhura v Kashi Ram**²¹, it was held that, “*a construction which would advance the intention of the testator has be favoured and as far as possible effect is to be given to the testator’s intention unless it is contrary to law. The court should put itself in the armchair of the testator.*” The court should also consider about the surrounding circumstances, the position of the testator, the family relationship, etc. to make particular sense of the words in the will. It should not speculate the meaning of what is written in the will. The factors which are mentioned above should merely aid in ascertaining the intention of the testator. Court should only interpret in accordance with the expressed and implied intention of the testator and not to recreate or make will for the testator.²²

A bequest cannot be made to a person who is dead at the time of the death of the testator. Section 113 of the act provide for transfer of property under a will to an unborn person. An earlier interest in life must be created in another person and the bequest must include the entire remaining interest of the testator. In **Sopher v. Administrator-General of Bengal**²³, the court upheld the transfer of property from grandfather to unborn grandson as the interest vested was transferred at the birth of the grandsons and the property can be enjoyed by them when

they attain the age of twenty- one years. If the transfer is limited and not absolute, then the transfer is void. In the case of **Girish Dutt v. Datadin**²⁴, the court decided that interest to be transferred must be absolute and not limited in any way.

Section 114 of ISA, 1925 states, “Rule against perpetuity.—No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the life-time of one or more persons living at the testator’s death and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.”²⁵ The maximum permissible age of remoteness in India is 18 yrs.

In **Stanely v. Leigh**²⁶, it was decided by the court that “*the rule of perpetuity is not applicable when there has to be a transfer, interest in an unborn person must be created, takes effect after the life time of one or more persons and during his minority, unborn person should be in existence at the expiration of the interest.*”

Section 61 of the act provides for an invalid will. “a Will, or any part of Will made, which has been caused by fraud or coercion, basically not by free will, will be void and the Will would be set aside.”²⁷ Section 127 of the act says “a bequest, which is based upon illegal or immoral condition, is void. The condition which is contrary, forbidden, or defeats any provision of law or is opposed to public policy, then the bequest would be invalid”²⁸.

²⁰ 1951 AIR 103.

²¹ 1994 AIR 1202.

²² Navneet Lal v. Gokul & Ors [AIR 1976 SC 794].

²³ AIR 1944 PC 67.

²⁴ AIR 1934 Oudh 35.

²⁵ Section 114, Indian Succession Act, 1925.

²⁶ (1732) 24 ER 917.

²⁷ Section 61, Indian Succession Act, 1925.

²⁸ Section 127, Indian Succession Act, 1925.



CHAPTER III- WILL UNDER MUSLIM LAW

Under Muslim law, “Wasiyat” (meaning will or testament) is been defined as “*an instrument by which a person makes disposition of his property to take effect after his death.*”²⁹ Furthermore, Tyabji has also defined it as “*conferment of right of property in a specific thing or in a profit or advantage or in a gratuity to take effect on the death of the testator.*”³⁰ Similar to that in Hindu law, the will becomes potent only after the death of the testator, the testator has full control over it and it can be revoked or altered by him. Beneficiary under the will cannot interfere in any manner whatsoever in the testator's power of enjoyment of the property including its disposal or transfer.³¹

An important narration for will under the Muslim law is the story of Sa’d Ibn Waqqas and the Prophet. Sa’d has fallen ill during the Farewell Pilgrimage. He was a wealthy man and only had a daughter. He asked Prophet (Messenger of Allah), how much property he shall give as Sadaqah (Benefactor). He asked whether he could donate two-thirds or half of his property. The Prophet denied. When he asked one-third, Prophet agreed as it is good to leave the legal heirs well-off is better than leaving them dependent on others and beg for the necessities in life from other people.

According to the tradition of the Prophet, the object of the will is to provide maintenance to the members of the family and to those other relatives where they are not provided anything by the law of inheritance. But the

power such exercised by the testator should not injure the legal heirs. Hence, it can be understood that the policy of Muslim law permits a man to give away whole of his property in equal shares as a gift done when alive among the legal heirs and part of it is to be given to the other relatives.

In the case of *Abdul Manan Khan v. Mirtuza Khan*³², the general rule was reiterated by the court that no formality is required in making of the will. Writing of a will is not important to make the will legitimate and no specific structure is provided for forming of one. Even verbal assertion is vital as much as the goal of the deceased benefactor is adequately found out. The will which is made in writing is called a “wasiyatnama” and is need not to be signed or attested. Also in the case *Abdul Hameed V. Mahomed Yoonus*³³, it was said that if particular instructions are written on a paper on the direction of the testator about the way in which his property is to be distributed after his death is considered to be a valid will. In *Mazhar Hussain v. Bodha Bibi*³⁴, if a person has written a letter stating the way in which his property is to be disposed, the letter will considered to be a valid one.

The majority age is regulated by the Indian Majority Act of 1875, under which, at the end of 18 years, a person obtains majority (or if the child is under the guardianship of the Court of Wards, the age is taken as 21 years). The testator must be aware of the consequences at the time of making of the will i.e. must have a “perfectly disposing mind”. A will executed in fear of death is

²⁹ Family Law II by A.K. Jain (3rd edition).

³⁰ Shiva, *Concept of will under Muslim Law* (May 05, 2020, 8:00 PM IST) <http://www.legalserviceindia.com/legal/article-251-concept-of-will-under-muslim-law.html>

³¹ Shiva, Ibid (May 05, 2020, 8:00 PM IST).

³² AIR 1991 Pat 154.

³³ AIR 1940 Mad 153.

³⁴ [1898] UKPC 54.



valid, but according to Shia law, the will is void if a person executes it after attempting suicide. Will which is made under undue influence, fraud or coercion is void. A will made by a minor is inept but will be ratified on attaining majority. The testator must be Muslim “at the time of making or execution of the will”. If at the time of the death the testator ceases to be Muslim, his wasiyat will still be valid in the eyes of Muslim law. The will is governed by the laws and rules of that particular Muslim law school to which the testator belonged when it was executed.

The beneficiary must be any person who is capable of holding a property. It is not necessary that the legatee has to be a Muslim. There is no bar on criteria like sex, age, creed or religion when the bequest is made to him. However, a bequest made to an unborn is invalid. Any bequest which is made to an institution or to a “juristic person” is valid. But such bequest can only be given to a institute which promotes Islam³⁵. Bequest for charitable purposes is valid, but it should only be towards Islam as Hindu gods are opposed to it. A person will not be considered to be a legatee if his actions leads to the death of the testator. It is immaterial whether a legatee knew that he will be benefitted under the will or not, at the time of performing his actions. If no specified amount of share is mentioned in the will, the property will be equally divided among them.

The property which is dealt in the will must be capable of being transferred after the death of the testator and must be in existence at the

time of his death. But such property may or may not be in existence at the time of making of the will. The property must be absolute and should not come with any conditions attached to it. A bequest cannot carry a condition when made. A “bequest in futuro is void”³⁶. In the case of *Advocate General v. Jimbabai*³⁷, if at the time of the death of the testator, the son will get the property. If not, then his grandson will get the property. If failing both the property will go to charity.

A Muslim testator does not have unlimited power while making the will. The restrictions are provided so as to protect the interests of the heirs. The property bequeathed must not be more than one- third. If the testator wants to bequeath the property more than one-third, the consent of heirs is essential. This is applicable in both Shia and Sunni laws³⁸. If the whole property is bequeathed to only one of the heir which results in exclusion of other heirs is void in nature. With respect to bequest of one- third to an heir, the consent is required in Sunni law but not in Shia law³⁹. If there is no heir to the testator, the one-third rule is not applicable. The government will not be considered heir to heirless person. The testator may dispose of his property as he requires. Under both Sunni and Shia law, bequest to charitable and religious purposes is up to one- third of property. If marriage is happened under the Special Marriage Act, 1954, the one- third limit to a particular heir will not be applicable as Indian Succession Act, 1925 would be applied in such cases.

In *Muhammad V. Aulia Bibi*⁴⁰, it was decided by the court that “if the property is to

³⁵ Neha Gururani, *Will under the Islamic Law of Inheritance in India* (May 04, 2020, 6:00 PM IST), <https://blog.ipleaders.in/islamic-law-will/>

³⁶ Neha Gururani, *Ibid* (May 04, 2020, 6:00 PM).

³⁷ (1915) 17 BOMLR 799.

³⁸ Ghulam Mohammad v. Ghulam Hussain, [(1932) 34 BOMLR 510].

³⁹ Shiva, *Supra* 29 (May 05, 2020, 8:00 PM IST).

⁴⁰ (1920) ILR 42 All 497.



be bequeathed on heir and non- heir, without the consent of the heir, the non- heir will get one- third of the property and the rest two- thirds will go the heir by way of inheritance.”

A will made by the testator may be revoked at any time during his lifespan. The revocation made may be express or implied. If a subsequent will is made, the prior will (bequest) is revoked. But if in the subsequent bequest, another beneficiary is added regarding the same bequest then the bequest will be divided equally among the beneficiaries.

The two schools of Muslim law differs at various points with the concept of will. In Sunni law, the consent of the heirs is required to bequest up to one- third of the property, while in Shia law for more than one- third, consent is required. In Sunni law, such consent must be given after the death of the testator but in Shia law, consent can be before and after the death of the testator⁴¹. In both the laws, if the death of the testator is caused intentionally by the testate, he is not allowed to take part in the bequest. However if the death is caused accidentally or negligently, then he can take the property⁴². Under Sunni law, if the testator commits suicide before or after execution of the will, the will is valid, however will is valid in Shia law only if suicide is committed after executing the will. The bequest for an unborn child if he is born within 6 months of making the will (in Sunni law) and 10 months (in Shai law). In Sunni law, relatable abatement of legacy applies, whereas rule of chronological priority is applied in Shia law.⁴³ Relatable abatement means if bequest of more than one- third of

the property is made to two or more persons, the shares among the legatees are reduced proportionately to one- third. In Chronological priority means the legatee which is mentioned first in the will gets his share first. After the share is provided to the first legatee, the remaining goes to the second one. If still, the share further remains, it goes to the third legatee. This is done as per the one- third rule.

CHAPTER IV- ANALYSIS AND CONCLUSION

From the careful analysis of the concept of wills under both the concept of Hindu Law and Muslim Law, it can clearly be understood that both are very similar in nature in regards to the essential requirements in making of the will. The primary point of difference being that under Muslim law, the maximum of one- third of the will can be transferred to the heirs. While in Hindu law, the whole or a part of the will can be transferred to a particular heir. In will under Muslim Law, the importance of paramount nature is given to the consent of the legal heirs but is not given under the Hindu law. Also, under the Muslim laws, there are various differences between the Sunni Muslims and the Shia Muslims in the concept of will like difference if suicide is committed by the testator before or after in making of the will, death caused due to the conduct of the legatee, chronological priority and relatable abatement, etc. The concept is clear and well defined in both Hindu and Muslim laws. After the introduction of Indian Succession Act, 1925 the concept of will under the Hindus was codified properly. As stated before, the concept of will never prevailed among the Hindus but such concept

⁴¹ Supra 10 (May. 05, 2020, 5:30 PM IST)

⁴² GCV Subha Rao, Family Law in India (10th edition)

⁴³ A.K. Jain, Family Law II (3rd edition)



prevailed in Muslims even before the Mughal Rule. Hence, over the years various issues have been ironed out and the concept is a well-polished one among the Muslims. The will among the Hindus is very heavily derived not only from the Muslim counterpart but also from the British who stated to rule the Indian sub-continent after the end of the Mughal Raj and introduced their philosophies into it. Hence, it can clearly be understood that will under Hindu law is a combination of both the Muslim philosophy and the British philosophy.

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