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WE PLAN, YOU PROSPER

UNLOCKING INHERITED ASSET BY LEGAL HEIR

(Bank Account | Lockers | Deposits)

PART-2



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From the Editor's Desk

Passing is a fitting word to signify the end of a life; for one's passing means passing of the life's possession too. Sadly, the matters of heart and the matters of money rarely go as planned (or willed). After the demise of the loved one, conflicts over wills and court cases go hand in hand in the country.

Who is the true heir? How is a will settled? Who can claim a particular asset? How does distribution happen? Is there a tax on inheritance? The issue answers all such questions and more.

Hope you find the information useful.

Best,
Team Meri Punji



Punji (*noun/Hindi*)- **Capital** meaning, wealth in the form of money or other assets owned by a person or organization or available for a purpose such as starting a company or investing.

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UNLOCKING INHERITED ASSETS BY LEGAL HEIR:

BANK ACCOUNT

It's not uncommon for individuals to open one or multiple bank accounts in their lifetime. The problem arises when they pass away, leaving no will or nominee name to claim the funds in those accounts.

To make matters worse, some may draft an incomplete will, which specifies the division of assets like property, gold, stocks and shares, but doesn't inform who inherits the funds lying in bank accounts. Fortunately, most banks today ask holders to declare a nominee who must be next of kin at the time of account opening. Typically, spouses and children are roped in for the role.

With a nominee in the picture, the bank transfers the funds in the deceased's account to the nominee without asking for a will. However, a nominee is merely a trustee for the legal heirs of the deceased. The final distribution of funds depends on several other factors.

Who Inherits Bank Accounts After a Person's Demise?

■ If there is a Will

As mentioned before, if the account held by the deceased carried the name of a nominee, the bank will pay the balance to them. However, once the nominee receives funds, they can further consult with other family members, who may be rightful heirs, to split the proceeds or keep the entire amount.

Splitting the bank account funds becomes easier if there is a will left behind by the deceased. Because the will may or may not name the nominee as the inheritor of funds. But if the will names the nominee as the inheritor of the bank accounts, then they will be entitled to the complete claim.

Here are the documents required for filing for a succession certificate:

1. Original death certificate

2. Identity card

3. Ration card (optional)

4. Name of all legal heirs and their relationship with the deceased

After submitting paperwork, the court will verify the credentials and award a succession certificate accordingly.

If there is No Will or Declared Nominee

In the absence of the deceased's will and declared nominee, the laws of the Hindu Succession Act, 1956 and the Indian Succession Act, 1925 (for non-Hindus) will apply. As per this Act, the funds are considered part of the deceased's estate and wealth, so they are distributed equally among the spouse and children.

In the absence of the spouse, only the children are entitled to the money. But if the deceased doesn't have any surviving kin, the funds go to the government.

Another point to note here is that when there is no will, many heirs may come forward claiming the deceased's bank accounts. This may create discord among family members and also oust the rightful heirs from receiving money.

If the bank account becomes a disputed asset, the rightful heirs can still claim the bank account by submitting their succession letter. The deceased's kin can approach their jurisdiction's civil court to get certified as a successor.

Can I Challenge the Will if the Bank Account's Benefactor is Unrelated to the Deceased?

Uncommon as it is, a will may name a completely unrelated person, can be a stranger, friend or distant relative, as the benefactor of the deceased's bank accounts. Such a woeful act may draw the wrath of the deceased's kin, and they can start questioning the will's authenticity.

Maybe the deceased willed their bank accounts to an unrelated party under duress. Or, perhaps, the will is counterfeit, and the deceased never created one. When such questions arise, the deceased's kin can apply for probate in court seven days after the testator's demise.

Through the will probate procedure, the court verifies to approve or disapprove the validity of the will as the final will of the deceased. After approval, the court awards authority of executing the will to a legal executor.



BANK ACCOUNT INHERITANCE

Do I need to Pay Tax After Receiving the Deceased's Funds?

Yes, the nominee or benefactors will pay tax on interest returns of the deceased's bank account. However, a tax exemption up to Rs. 1.5 lakhs under Section 80C is also available to the benefactor.

In Conclusion

Passing away is not in our control, but ensuring the financial security of our loved ones through succession planning is. This is why drafting a will to specify the order of inheritance is of utmost importance.

So, draft one in the presence of a neutral party, A.K.A., a lawyer.

UNLOCKING INHERITED ASSETS BY LEGAL HEIR:

Countless individuals across India use bank lockers. These safety deposit boxes come in various sizes and can hold miscellaneous items, from jewellery to cash to documents and whatnot. Besides, they often become treasure troves of one's estate.

Even though countless banks across the country offer lockers for safekeeping valuables, the process for claiming them in the event of the holder's demise is more or less the same.



Lockers

Who Gets Access to the Deceased's Locker?

Most individual locker owners declare a nominee at the time of opening a locker. The primary purpose of declaring a nominee is to authorise another person to open the locker and remove its contents when the original owner passes away. All they need to produce at this time is the deceased's death certificate and their original identity proof.

However, the nominee will have a claim on the deceased's locker contents only if it was held individually. Even then, the nominee may or may not be the beneficiary of the locker's contents. While they may be eligible to clear the contents of the deceased's locker, the legal heirs can ultimately claim and distribute their share. However, if the nominee is the deceased's spouse or child, they are eligible to receive a share in the locker's contents.

In the case of joint locker holding, there may be a survivorship clause. Under this clause, each hirer specifies a survivor who receives joint access to the locker with the surviving holder when one of the owners passes away.

A locker owner may or may not use this clause. If they don't use this clause, they may still declare a common nominee who can jointly claim the deceased's locker.

The bank might allow the surviving locker owner to take complete control of the contents only if the deceased owner did not specify any survivor or nominee. Then too, the legal heirs of the deceased can claim an equitable distribution of the locker's contents according to the Hindu Succession Act of 1956 or the Indian Succession Act of 1925.

Who Gets Locker Access Without Nomination and Survivorship Clause?

Suppose locker holders did not use the survivorship clause and didn't declare a nominee. In that case, their legal heirs or successors gain direct access to the locker, and the distribution of contents will occur according to the deceased's will or will probate.

In the absence of a will, however, all contents must be distributed equally among the rightful heirs, which includes the deceased's spouse and children, regardless of their marital status. But these heirs may have to produce documents proofs that establish their identity and relationship with the deceased. Word of mouth has no authority here.

How Does the Claims Process Work?

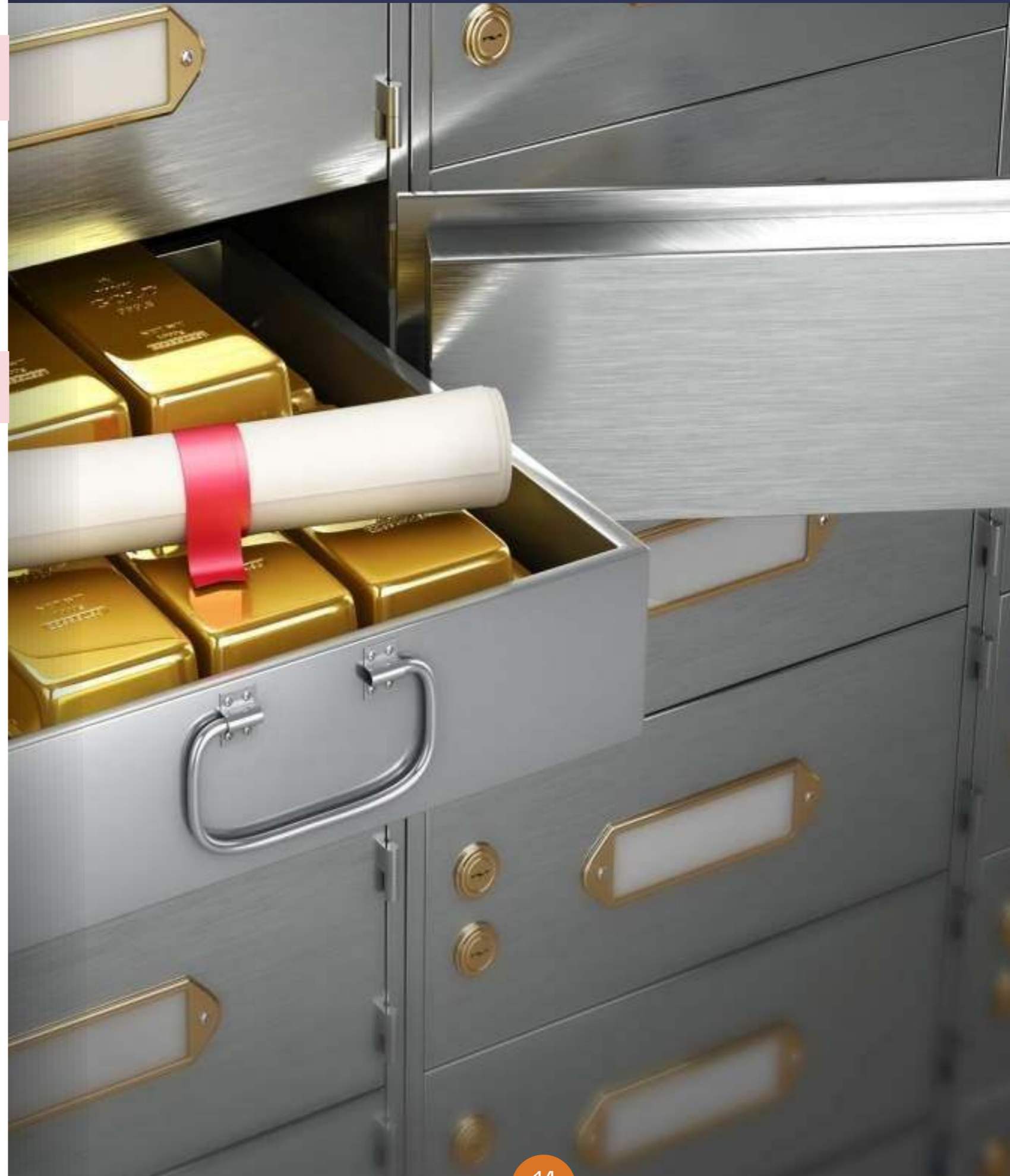
After the demise of a locker holder, the bank will reach out to the nominee or survivor or vice versa. Once the designated entity reaches the bank, the officials will check their KYC documents, which include their identity proof and the deceased's death certificate.

After successful verification, the bank officials will open the deceased's locker in front of the nominee or survivor. They will then prepare an inventory and a list of the articles inside the locker in front of the nominee. The nominee, survivor or heir will be free thereafter to collect the contents of the deceased's locker.

Final Word

No matter who claims and collects the contents of the deceased's locker, the distribution will happen as per the will. And the nominee, survivor, or even immediate family members may or may not make the cut. In the absence of the will, however, the locker contents are equally distributed among the heirs.

However, if there is no dispute as to who are the legal heirs of the deceased, the nominee or survivor can distribute the locker contents without checking any documentation.





UNLOCKING INHERITED ASSETS BY LEGAL HEIR: DEPOSIT

Meet Aarti, a business professional who recently lost her father, Ashok, due to natural causes. After his demise, she found out he had multiple fixed and recurring deposits in different banks. Naturally, she assumed that these accounts would be mentioned in his will along with his estate and other investments.

To her relief, Ashok had made a will declaring Arti, her mother, Asha, and her brother Arun as legal heirs. Despite this, Asha, Aarti and Arun didn't receive a single penny of proceeds from the deposits. This is because Ashok had named his younger sister Usha as the nominee.

However, Ashok's kin did not lose out on the valuable funds that could finance Arun's ongoing education. This is because a nominee is more a trustee of deposits than a legal heir. Since Ashok's will unequivocally declared his spouse and two children as successors; the nominee, Usha, distributed the funds equally from his bank deposits between the surviving three family members. Because Ashok's will mention the equal distribution of deposits in three parts.

How Did Ashok's Will Safeguard His Spouse and Children's Financial Interests?

Ashok ensured no discord between his family members and relatives by making a will ahead of time. He also eliminated any ambiguity that could've left Usha with substantial funds which weren't meant for her.

Through the will, his final wish of equitable property and wealth

distribution came true, and he also ensured his family continued living comfortably even after his demise.

To claim and distribute the deposit, all Usha had to do was visit the deceased's bank to furnish his death certificate, fill out a form, provide some proof of identity, and the money was transferred into her account of choice.

Was it Mandatory to Discontinue the Deceased's Deposit Accounts?

Ashok's kin and Usha could not have dissolved the deceased's bank deposits had they been co-applicants and not nominees. A joint FD or RD allows the surviving party to transfer the same in their name and continue using it until maturity.

However, since Ashok held all of his deposits under his name alone, the only thing banks did, as most banks would do, was transfer funds along with interest accrued into the nominee's account once they received the death certificate and application form.



Could Asha, Aarti, and Arun Have Claimed their Father's Deposits Without a Will?

Yes, there are legal resources through which the legal heir or heirs can be identified and presented with their rightful share. However, this is not a relief-driven process. For starters, the rightful heirs would have to knock on the court's door to get a succession certificate made. After the verification is completed, it declares the rightful heir as a successor of the deceased individual.

Given the nature of consequences that often unfurl in the absence of a will, it's best to have one ready. People, generally, make one:

**Through a lawyer
or
On their own**

Both methods are valid as you don't need any legal stamps or registration to draft this document. Also, you can format it the way you like. However, when you involve a lawyer, they can act as a neutral third party confirming the will's authenticity.

This is especially helpful when inheritors don't trust the credibility of the will and order a probate caveat for the same. Probating a will is the process of getting a deceased's will certified for authenticity by the court. After will probate, a legal executor ensures they distribute the bank deposits as per the probated will.

The Rightful Claim

As much as we'd like to avoid the unpleasantness of money matters, we must remember: life goes on, and so do the investments we make in our lifetime. While the legal course will ensure your deposits reach the rightful heirs, a will simply hastens the due deliverance. Whether you are in the golden period of your life or reaching there; if you have deposits and other assets to your name, make a will.





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Every individual is unique and so are his or her investment needs. Investment planning must always be aligned with one's goals. Hence, our approach is to help you chalk out an investment strategy that is best fit for 'you'.

We see ourselves as educators rather than advisors. Our endeavor is to build awareness about the various kinds of investment products in the market. After all, an informed decision is always a better decision.

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