



JSA Prism Corporate (Family Law)

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End of mandatory probate: Repeal of Section 213 of the Indian Succession Act, 1925

For nearly a century, Section 213 of the Indian Succession Act, 1925 (“**Succession Act**”) mandated that no right under a will could be legally established unless a probate or letters of administration was obtained, i.e., courts served as gatekeepers to validate the authenticity of a will before beneficiaries could claim rights. This mandatory requirement applied specifically to wills made by Hindus, Sikhs, Jains, Buddhists and Parsis that were executed in, or related to immovable property situated within, the erstwhile presidency towns. However, the Repealing and Amending Act, 2025 (“**Amendment Act**”), which received the President’s assent on December 20, 2025, omitted Section 213 of the Succession Act effectively bringing the colonial-era mandate for probate to an end.

Erstwhile framework

Prior to the Amendment Act, Section 213 of the Succession Act provided that no right as executor or legatee could be established unless a court of competent jurisdiction in India granted probate of the will under which the right is claimed. This requirement applied to wills made by Hindus, Parsis, Sikhs and Jains in the erstwhile presidency towns of Bombay (now Mumbai), Calcutta (now Kolkata) and Madras (now Chennai) and with regard to the immovable property situated within those limits. This provision, however, did not extend to Muslims and Indian Christians, whose testamentary succession is governed by their respective personal laws. While this ensured formal verification and offered legal finality, it also resulted in discriminatory outcomes due to community-based and geography-based distinctions. In practical terms, even where a will was genuine and undisputed, beneficiaries were compelled to undergo the time-consuming and costly probate process before asserting their rights in court, making succession cumbersome, time-consuming, and expensive process.

Current amendment

The Amendment Act entirely omits Section 213 of the Succession Act. This reform aligns these cities with the rest of India, thereby eliminating long-standing procedural inequalities in testamentary succession. A duly executed will may now be relied upon directly by heirs and institutions such as banks, housing societies and registrars without the need for court validation. However, probate by beneficiaries remains an optional protective step.

Implication on inheritance practices

The omission introduces the following implications on inheritance practices:

1. **Simplified estate administration:** Heirs can now act on a will without mandatory litigation, reducing timelines and costs associated with the litigation process, especially the aspect of court fees. This is a welcome change for economically disadvantaged groups, helping make inheritance processes optional, accessible and affordable. Moreover, removal of litigation process also accelerates execution of wills, making it a preferred and an approachable mode of succession.
2. **Uniformity across India:** Removing city-specific and community-specific requirements eliminates discriminatory requirements in inheritance procedures. Although the mandatory probate requirement was originally introduced during the colonial period to ensure certainty of title for high-value urban properties, it has now been dispensed with, as the rationale for its continued application no longer exists.
3. **Loss of automatic legal finality:** Previously, a granted probate served as a strong defence against future disputes. Without mandatory probate, wills may face increased vulnerability to litigation.

Conclusion

The repeal of Section 213 of the Succession Act marks a significant modernisation of India's inheritance law, resolving long criticised procedural discrimination and aligning testamentary succession practices nationwide. While the new framework offers greater efficiency and reduced legal burdens, it simultaneously transfers to beneficiaries the responsibility to assess whether voluntary probate is prudent to safeguard against potential future disputes. Overall, the amendment strikes a balance between ease of succession and optional legal authentication, transforming how wills are operationalised in India. The reform does not eliminate judicial oversight; it merely removes compulsory court involvement where no dispute exists.

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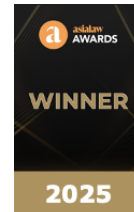
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