CHAPTER–VI
REGISTERED AND NON REGISTERED WILLS

This chapter deals in detail about the registered and non registered wills. Under the Indian Registration Act, 1908 the registration of a will is not compulsory. Rather, as per section 18(e) of the Act, the registration of a will is mere optional. A will need not be compulsorily registered; the fact that a will is not registered is not a circumstance against the genuineness.¹ Similarly, the Honourable Apex Court has held that no inference can be drawn against the genuineness of a will solely on the ground of non-registration.² But there is no doubt that if a will has been registered, that is a circumstance which may, having regard to the circumstances, prove its genuineness. However, at the same time the mere fact that a will is registered will not by itself be sufficient to dispel all suspicion regarding it where suspicion exists, without submitting the evidence of registration to a close examination. If the evidence as to registration on a close examination reveals that the registration was made in such a manner that it was brought home to the testator that the document of which he was admitting execution was a will disposing of his property and thereafter he admitted its execution and signed it in token thereof, the registered Will dispel the doubt as to the genuineness of the Will. But if the evidence as to registration shows that it was done in a perfunctory

manner, that the officer registering the will did not read it over to the testator or did not satisfy himself in some other way (for example, by seeing the testator reading the will) that the testator knew that it was a will the execution of which he was admitting, the fact that the will was registered would not be of much value.

6.1 History of Registration:

The System of registration of documents was in vogue in British India from an early date. It was first introduced in Bengal by Bengal Regulation XXXVI of 1793; in Bombay by Regulation IV of 1802 and in Madras by Regulation XVII of 1802. These Regulations applied not only to the Presidency towns but also to the moffusil. The Regulations in the three different Presidencies were more or less in the same form. Taking Madras Regulation XVII of 1802 (as printed in Clarke’s Regulation, 1848) as an example, we find that a Registrar was appointed for each zilla. It authorised the Registrar and required him to register the following documents:

1. Deeds of sale or gift of lands, houses and other real property;

2. Deeds of mortgage on land, houses and other real property, as well as certificates of the discharge of such incumbrances;

3. Leases and limited assignments of land, houses and other real property, including generally, all conveyances used for the temporary transfer of real property;

4. Wasseathnamas or Wills;
(5) Written authorities from husbands to their wives to adopt sons after their (husbands’) demise.

Section 6 of the Madras Regulation was similar in terms to the corresponding provisions of the Bombay and Bengal Regulations. (Mulla’s Commentary on the Registration Act, Fifth Edition, at page 210. sets out in full Section 6 of the Bombay Regulation). This was the most important provision of these Regulations. Firstly, it provided that every deed of sale or gift registered under the Regulation would invalidate any unregistered deed of the same nature whether executed prior or subsequent to the registered deed. Secondly, it provided that every registered mortgage deed would have priority over any unregistered mortgage deed whether executed prior or subsequent to the registered mortgage. Thirdly, it stated that the object of the two preceding rules was to prevent persons being defrauded by purchasing or receiving in gift or taking in mortgage real property which may have been before sold, given or mortgaged, and that persons would never suffer such imposition when they are apprised of the previous transfer or mortgage of the property. It, therefore, provided that if the buyer, donee or mortgagee had knowledge of the previous sale, gift or mortgage, the rule of invalidation d priority mentioned in the previous two clauses would not apply.\(^3\)

This system, subject to certain modifications introduced by Act I of 1843, continued in force till the Registration Act, XVI of 1864 was enacted except in Bombay

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where an important change was introduced by a Regulation of 1827. Section 13 of that Act provided that certain documents shall not be received in evidence in any Court or be acted upon by any public officer unless the document shall have been registered. [This section corresponds to clause (c) of the present section 49 and the documents listed therein correspond to the documents specified in clauses (a), (b), (c) and (d) of sub-section (1) of the present section 17]. It may be noted that this section itself did not specifically say that these documents must be compulsorily registered but the same result was secured by means of the sanction of refusing to receive in evidence such documents, if unregistered: It was Act XX of 1866 which provided, for the first time, that instruments of the four classes mentioned therein must be registered.

It will thus be seen that the system of registration which was introduced in 1793 remained an optional system till 1866. From 1866 certain classes of documents were required to be compulsorily registered. The Act of 1866 was replaced by Act III of 1877 which was amended from time to time till it was replaced by the present Act XVI of 1908.

The Indian Registration Act, 1908 applied to the British Indian Provinces and, after the coming into force of the Constitution, to the corresponding Part A and Part C States. By ct III of 1951 the Act was made applicable to Part B States also. We have not thought it necessary to enquire into the system of registration in vogue in Part B States before 1951 as it would not seem to be of any practical value in relation to the revision of the Act which now
extends to the whole of the territory of India excluding only the State of Jammu and Kashmir (to which State the relevant legislative power of Parliament does not extend).

The sections of this Act may be broadly grouped under three heads. The first head relates to the documents which are registrable under the Act. The second relates to the procedure to be followed for getting a document registered under the provisions of the Act. The third deals with the administrative machinery provided under the Act and the respective duties of the different classes of officers. This classification leaves out of consideration the provisions relating to penalties etc.

The documents registrable under the Act fall under three categories. In the first category come documents relating to transactions which, according to the substantive law, can be effected only by registered instruments. It is hardly necessary to point out that the registration Act does not lay down that any transaction, in order to be valid, must be effected by a registered instrument. What it provides is that when there is a written instrument evidencing a transaction, it must, in certain cases, be registered, while in other cases, it may, at the option of the parties, be registered, in the manner laid down in the Act. The obligation to get a transaction effected only by a registered instrument is laid down by the substantive law. Thus, the Transfer of Property Act requires that sales, mortgages exchanges, gifts and leases can be effected only by registered instruments subject to an exception in case of some transactions relating to immovable property of less
than Rs. 100 in value. Similarly, the Trusts Act requires that a trust in respect of immovable property should be created only by an instrument in writing and registered. The substantive law, however, does not provide the machinery for effecting registration. It is the Registration Act which provides the machinery for effecting registration and the parties to registrable instruments must necessarily have recourse to the provisions of this Act.

Under the substantive law, certain transactions can be effected without a writing e.g., partitions, releases, settlements etc. But if the transaction is evidenced by a writing and relates to immovable property, the Registration Act steps in and clauses (b) and (c) of section 17 (1) require registration of such documents, subject to the exceptions specified in sub-section (2) of that section. If an authority to adopt is conferred in writing, other than a will, it is also required to be registered sec. 17 (3)]. These documents fall under the second category.

It is open to the parties, if they so choose, to get certain documents registered at their option and this is permitted by section 18. Wills need not be registered but it is open to the parties to get there registered under the provisions of the Act. Such documents come under the third category.

The Act further provides for the consequences of non-registration of documents (sec. 49) and the effects of registration (Secs. 48 and 50).

The registration of instruments is governed by the provisions of the Indian Registration Act. The Act makes a
distinction between two kinds of instruments: (a) documents of which registration is compulsory and (b) documents of which registration is optional.

If a document falls into the (a) category, that is to say, its registration is compulsory and if it is not registered, then, there are two consequences. Firstly, the document does not take effect at all in respect of the property over which it purports to take effect: and Secondly, no Court of Law can receive the document as a piece of evidence in proof of the transaction which it purports to give effect to. Examples of such documents are: Instruments of Sale, Instruments of Mortgage, Instruments of Gift, Release and Settlement, Instruments of Lease, where the period is in excess of one year, and so on.

If a document falls into the (b) category, then, whether it is registered or not makes no difference to the validity of the document.

When a Court is called upon to decide if a particular will is genuine or not, it will sometimes attach greater credence to a plea that a will has been duly executed and attested, if it has been registered. Please note that the issues of whether the will is invalid for reasons such as insanity or coercion still remain very much at large, and the registration of a will makes no difference.

Even the issue of proof of execution and attestation will still remain the primary job of the person depending upon the will to establish his case, but there is no doubt that in practice, his job is made somewhat easier by the fact of the being registered.
A will, which requires probate, is of no effect unless probated. The mere fact of its registration makes no difference. Thus, a Court called upon to probate a will would look into the fact of its registration only as one of the several circumstances when deciding whether to grant probate or not, Nothing more and nothing less.\(^4\)

Section 18 (e) of the Indian Registration Act, 1908 says that the registration of a will is optional. The mere fact that the registration of a will is made optional, it cannot be said that because of its non-registration, an adverse inference can be drawn.\(^5\)

However, though the registration is optional, if the testator himself register the will, it can be presumed as genuine.\(^6\)

Part VIII of Indian Registration Act, 1908 deals with the presenting of wills and authorities to adopt.

Section 40 & 41 of Indian Registration Act 1908, read as follows—

**Section 40. Persons entitled to present wills and authorities to adopt:**—(1) The testator, or after his death any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration.

(2) The donor, or after his death the donee, of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

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Section 41. Registration of wills and authorities to adopt:—(1) A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

(2) will or authority to adopt presented for registration by any other person entitled to present it shall be registered if the registering officer is satisfied—

(a) that the will or authority was executed by the testator or donor, as the case may be;
(b) that the testator or donor is dead; and
(c) that the person presenting the will or authority is, under Section 40, entitled to present the same.

Part IX of Indian Registration Act deals with the aspect of deposit of wills. Section 42 to 46 of Indian Registration Act, 1908 dealing with this aspect read as follows.

Section 42. Deposit of wills:—Any testator may, either personally or by duly authorised agent, deposit with any Registrar his will in a testator and that of his agent (if any) and with a statement of the nature of the document.

Section 43. Procedure on deposit of wills:—(1) On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his
agent, and any legible inscription which may be on the seal of the cover.

(2) The Registrar shall then place and retain the sealed cover in his fire-proof box.

**Section 44. Withdrawal of sealed cover deposited under Sec. 42:**— If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally, or by duly authorised agent, to the Registrar, who holds it in deposit, and such Registrar if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

**Section 45. Proceedings on death of depositor:**—(1) If, on the death of a testator who has deposited a sealed cover under Sec. 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant’s presence, open the cover, and, at the applicant’s expense, cause the contents thereof to be copied into his Book No. 3.

(2) When such copy has been made, the Registrar shall re-deposit the original will.

**Section 46. Saving of certain enactments and powers of Courts:**— (1) Nothing hereinbefore contained shall affect the provisions of Section 259 of the Indian Succession Act, 1865, or of Section 81 of the Probate and Administration Act, 1881, or the power of any Court by order to compel the production of any will.

(2) When any such order is made, the Registrar shall, unless the will has been already copied under Section 45,
open the cover and cause the will to be copied into his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

It is for the registering officer to take a decision whether there are sufficient reasons for going to the residence of any person desiring to present a document for registration. In such a case it cannot be said that there was no proper registration of the Will.7

2. Will reciting a past transaction:—Where the testator in a will had recited a past transaction relating to the dower to his wife it can be received in evidence to establish the grant.8

3. Authority to adopt, by a will:—Where an authority to adopt was given by a will but however that document itself has no legal effect, it cannot be said that the authority to adopt was conferred by such a will.9

4. Enquiry by sub-registrar:—Where an enquiry was conducted by sub-registrar, relating to a will and witnesses were examined, at which opposite parties also had cross examined them, they are admissible in evidence under Section 33 of the Indian Evidence Act, in a suit between them parties dealing with the same question.10

6.2 Whether Registration of a Will is Compulsory:

A will, however, is registered at the option of the testator. A document which is not a mere authority to adopt and which is a will need not be registered and consequently

is admissible in evidence without registration.\textsuperscript{11} Where any
document is a will, which does not require registration the
sub-registrar and the Identifying witnesses, if they conform
to the law regarding attestation may became attesting
witnesses.\textsuperscript{12} Though registration is one of the factors, and
an important factor, it has got to be taken into account,
that by itself it cannot be accepted as exonerating the court
from its responsibility of adjudging that the document was,
in fact, executed by a testator or testatrix as the case may
be, whilst he or she was in a sound disposing state of mind
at the time of execution of the will and that the document
was understood by him as her Will.\textsuperscript{13}

Though it is not necessary to register a will, but the
Law recognizes a Registered will when the execution of a will
is disputed and when there is an unregistered will. The
provisions relating to registration of the will have been given
in sections 40 and 41 of the Indian Registration Act. The
testator, after his death, or any person claiming as executor
or otherwise under a will, may present it to any Registrar or
Sub Registrar for registration. No time limit has been
prescribed for registering the will and a will may be
presented for registration at any time. A will presented for
registration by the testator may be registered in the same
manner as any other document. A will presented for
registration by any other person entitled to present it shall
be registered, if the registering officer is satisfied
(a) that the will or authority was executed by the testator;

\textsuperscript{11} \textit{Nanda Kumar v. Chander Kishore}, AIR 1956 Pat 377.
\textsuperscript{12} \textit{Ammu v. Krishnan}, AIR 1965 Ker 32.
\textsuperscript{13} \textit{Kabhai v. Bhupat}, ILR 1966 Guj 601.
(b) that the testator is dead: and
(c) that the person presenting the will is entitled to present the same.

The registration of will is not the proof of the testamentary capacity of the testator, as the Registrar is not required to make an enquiry about the capacity of the testator except in case the testator appears to him to be a minor or an idiot or lunatic.\(^{14}\)

A will making a disposition of movable or immovable property, or a codicil (an instrument in relation to a will and explaining or adding to its dispositions), speaks from the date of death of the person making it - he or she can revoke or alter it at any time.

The ingredients of a valid will are set out in the provisions of the Indian Succession Act, 1925: it has to be executed with due solemnity, by a person of sound mind and understanding, with the signature of the maker of the will (or “testator”) being attested by two witnesses who, in the presence of one another, and of the maker, must have seen the maker sign it --- The provisions are generally applicable to the Wills of Hindus, Buddhists, Sikhs, Jains, Christians and Parsis --- but do not apply to Muslims because the will of a Muslim (under Muslim Personal Law) does not require to be in writing; it can even be oral.

A valid will (i.e. one which bears the signature of the maker and is attested by two witnesses) does not have to be compulsorily registered: Section 18 of the Indian Registration Act 1908 says that registration of a Will is

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\(^{14}\). [http://www.legallight.in/wills.html](http://www.legallight.in/wills.html).
optional, even when the Will contains a bequest of immovable property.

But a non-testamentary writing or an instrument which conveys immovable property (exceeding Rs 100 in value) is one that is compulsorily registrable: this is so provided in Section 17 of the Registration Act 1908.

In the past, when the maker of a will ("testator") bequeathed property (moveable or immovable) to "religious or charitable uses", and left behind him on his death a nephew, niece or nearer relative, then special restrictions were imposed by Section 118 of the Indian Succession Act 1925. That section provided that such a will (i.e. a testamentary writing attested by two witnesses which left property to religious or charitable uses) had to be executed not less than 12 months before the testator's death, and had to be deposited within six months of its execution in some place provided by law for the safe custody of wills of living persons. At the express request of the Parsi community, an amendment to Section 118 was introduced and passed by Parliament in December 1991 which stated: "Nothing in this Section shall apply to a Parsi". But this amendment became a major contributory factor to Section 118 being later struck down and declared unconstitutional by the Supreme Court in 2003 because it discriminated against Indian Christians to whom the provisions of Section 118 then continued to be applicable.

There is a separate chapter in the Indian Succession Act 1925 (Chapter-VI in Part VI) which contains provisions that guide Indian courts; on the construction or
interpretation of wills: the primary task of the court being to ascertain the intention of the testator: which must be gathered from the language used in the document. Since considerations keep changing from person to person, it is seldom profitable to compare the words of one will with those of another, or to try to discover which of the wills upon which decisions have been given in reported cases, the disputed will more closely approximates.

There are no limits to what a testator can do when making a will. As was said long ago, every testator "in disposing of his property is at liberty to adopt his own nonsense!" In one such case, a document containing only three words, "All for mother", was admitted to probate as disposing of a very large estate, thereby revoking an earlier will which was even less concise! And the recipient was the testator's own wife, whom he had been accustomed to describing as "mother"! The sense that courts in this country try to make of similar such "non-sense" is to be found in the rich armoury of case-law that has developed on the subject of wills.15

Though there is no such thing as a foolproof Will, one should try and cover the most common loopholes. The first doubt that can be raised by contenders is whether this is the last Will. In one's lifetime, people make several Wills but the last Will is the one that holds true.

Advises Kapil Sibal, 'One should get one's Will registered. Registration of a Will is not compulsory under the Indian Registration Act, 1908. An unregistered will does

not mean that the will is invalid. A testator, or after his death a person claiming to be the executor of the Will, may present it to a Registrar or Sub-Registrar for registration. Registration removes all doubts about the Will and is an easy procedure. In order to register the Will, one should go along with two witnesses to the office of the sub-registrar. The Registrar can be called home too."

The second ground that you must cover is chances of forgery. To prevent this, the event when the Will is being executed and registered should be videotaped.

If where there are any suspicious facts then the court will scrutinize the will, even if it is registered. If the evidence of the witness of a document is otherwise considered reliable and acceptable the mere ground that the evidence was discrepant on one of the points as to whether the entry in the register of the scribe was recorded or not or such a register was in fact maintained or not will not be enough the discard such a document or suspicion.\textsuperscript{16} The court is bound to apply the presumption under section 114 of the Evidence Act, and hold that the will was presented for registration by the executants and registered properly in accordance with law.\textsuperscript{17} It has been further held that Registration of a will is not the proof of its execution and propounder of the same is required to show that the will was signed by the testator with sound and disposing mind and free will.\textsuperscript{18} Moreover, it has been further held that no

\textsuperscript{17} \textit{Jayalakshmi Ammal} v. \textit{K. Lakshmi Iyengar}, 1992(1) Mad. LJ 95.
\textsuperscript{18} \textit{Bherulal} v. \textit{Ramkunwarbai}, AIR 1994 MP 5.
inference can be drawn against a will solely because of the non registration of the same.\textsuperscript{19}

6.3 Judicial Approach on Registered and Non-Registered Wills:

Registration of will does not exempt it from challenge. The registration is a formal way to instruct the probate courts and the state that you have a will and that your estate is to be divided according to that document rather than by statutory law. An unregistered will can still be a valid document provided that at least two people witness it and neither party has sole inheritance of the estate unless no other blood relatives are mentioned. Basically, if one person is bequeathed everything from the estate and there are other relatives, that person cannot witness the will as an official member.

As earlier mentioned, though the registration of a will is not compulsory under the law yet time and again it has been emphasized by the courts of law that presumption of truth is attached to a will which is registered though it is rebuttable in evidence. The Honourable Apex Court in one of the case has held that the pious wish expressed by the High Court that it was expected of the legatel to look after the welfare of the appellant was, according to us, of no consequence. Had these two suspicious circumstances been kept in mind by the High Court, we have no doubt that the finding of fact disturbed by the High Court would not have

\textsuperscript{19} Amma Bala Chandran v. Mrs. O.T. Jospeh. AIR 1996 Mad 442
occasioned in totality of circumstances. Thus, we have no option, but to upset the decision of the High Court.20

Similarly, in a case where the testator had bequeathed all of his property of his niece, who was married and affluent, by ignoring his own wife and minor children, it was held that will was not genuine though registered as no person would disinherit his minor children and six unmarried grand daughter.21 It was further held that having regard to the fact that the will was registered one and the propounder had discharged the onus then in such circumstances the onus shifts on the contestant opposing the will to bring material on record meeting such prima facie case in which event the onus shifts back on the propounder to satisfy the court affirmatively that the testator did not know well the contents of the will and has executed the same in a sound disposing capacity.

Regarding proof of execution of a Will it was held by the Honourable Apex Court that a will shall be strictly proved in terms of section 63 of the Indian Succession Act. It was observed that it is well settled that compliance of statutory requirements itself is not sufficient as would appear from the discussions hereinafter made yet again section 68 of the Indian Evidence Act, postulates the mode and manner in which proof of execution of document required by law to be attested stating that the execution must be proved by at least one attesting witness, if an

Yet in another case regarding mode and manner of execution of a Will it was held by the Apex Court that Section 63 of the Indian Evidence Act lays down the mode and manner in which the execution of an unprivileged Will is to be proved. Section 68 postulates the mode and manner in which proof of execution of document is required by law to be attested. It in unequivocal terms states that execution of will must be proved at least by one attesting witness, if an attesting witness is alive subject to the process of the court and capable of giving evidence. A will is to prove what is loosely called as primary evidence, except where proof is permitted by leading secondary evidence. Unlike other documents, proof of execution of any other document under the Act would not be sufficient as in terms of section 68 of the Indian Evidence Act, execution must be proved at least by one of the attesting witnesses. While making there must be an animus attestandi, on the part of the attesting witness, meaning thereby, he must intend to attest and extrinsic evidence on this point is receivable.

The question whether a registered Will can be superseded by an unregistered will had also been a matter of consideration before the court of law, wherein the Delhi High Court has held that there is no law that a registered will cannot be superseded by an unregistered will. A will does not operate in presenti. Its operation is contingent

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upon the death of the testator. Till alive, the testator can always revoke the will because a will is an instrument of trust by a living person addressed in rem to be operative after his death. A will, be it registered or be it unregistered can be revoked by defacing the will, destroying the will or otherwise superseding the same.\textsuperscript{24} Similarly, where a will was registered and the sub-registrar certifies that the same had been read over to the executor who, on doing so, admitted the contents, the fact that the witnesses to the document are interested lose significance.\textsuperscript{25}

In another landmark judgment it has been held by the Punjab and Haryana High Court that the proposition that transfer of property by way of a decree deviating from natural succession requires registration of the decree would not be applicable where conferment of proprietary rights are also by way of a registered will and right to challenge a decree on the ground of fraud is only available to the person against whom fraud has been played and not by a third party.\textsuperscript{26}

\textbf{6.4 Effect of Non Registration of a Will :}

Though, as mentioned herein before, a Will is not required to be compulsorily registered and there being no legal bar to an unregistered will being accepted, subject to its execution and attestation as required by law are proved, yet when a person makes a registered will then it would normally be expected of him to get the subsequent will

\textsuperscript{24} Sunil Anand & Anr v. Mr. Rajiv Anand & Others 2008(103) DRJ 165.
\textsuperscript{25} Rabindra Nath Mukherjee v. Panchanan Banerjeet (dead) by LR & 1995 AIR (SC) 1684.
\textsuperscript{26} Jagtar Singh v. Ind Kaur 2011 (2) PLR 535.
registered if he chooses to supersede the previous one. The non-registration, in such a situation does create suspicion, which the propounder has to explain. In this case, the testator did not completely exclude his other heirs by will though the division of property made by him is unequal. Will cannot be rejected simply for that reason when it has been proved to have been executed in a free, sound and disposing mind.27

The law recognizes a Registered Will when the execution of a Will is disputed and when there is an unregistered will. The provisions relating to registration of a will have been given under sections 40 and 41 of the Indian Registration Act. The testator, after his death, or any person claiming as an executor or otherwise under a will, may present it to any Registrar or sub-Registrar for registration. No time limit has been prescribed for registering a will and consequently the same may be presented for registration at any time. A will presented for registration by the testator may be registered in the same manner as any other document. The registration of will is not the proof of testamentary capacity of the testator, as the Registrar is not required to make an enquiry about the capacity of the testator except where the testator appears to him to be a minor or an idiot or lunatic.

Similarly, at the same time a will, which requires probate, is of no effect unless probated. The mere fact of its registration makes no difference. Therefore, a court which is called upon to probate, a will would look into the fact of its

registration only as one of the several circumstances when deciding whether to grant probate or not.

On a perusal of the above discussion, it may be concluded that though the registration of a will under the Indian Registration Act, 1908 is optional as per the provision of Section 18(e) yet it can be of more advantage if the registration of a will be made compulsory by amending the relevant provisions of the Registration Act. In India, the courts of law are flooded with the litigation on the issue of genuineness of the will. If the registration of the will is made compulsory then the litigation regarding the genuineness of the will can be curtailed down to a great extent. As far as unregistered wills are concerned, it is very difficult to prove the same once *prima facie* it is found that unregistered will is shrouded by the clouds of suspicion. In such cases, high degree of proof is required and will is required to meet the test of genuineness strictly as per the provisions of the Indian Evidence Act. Therefore in nutshell, it is advisable that the will should be got registered by the testator then the security of the will is enhanced as it is inaccessible to the general public. Moreover, if the will is registered and not contested after the death of the testator than a probate is not required to be obtained. Recently the Hon'ble Apex Court in *Narinder Singh Rao v. Avm Mahinder Singh Rao & Ors.*, decided in 22.3.13 while upholding the decision of the High Court Punjab and Haryana has held that while must be registered in case of Transfer of Property.