



M2K Advisors



# Legacy under a Will

SUCCESSION PLANNING SERIES #16

# Specific Legacy (1/2)

**Legacy** - An amount of money or property left to someone in a Will

Specific legacy means where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property.

### **Illustration:**

1. A bequeaths to B, a diamond ring presented to A by his mother. This is a **specific legacy**.
2. A bequeaths to B, a diamond ring. This is **not** a specific legacy.

Where a certain sum is bequeathed, the legacy is **not specific** merely because the stock, funds, or securities in which it is invested are described in the Will.

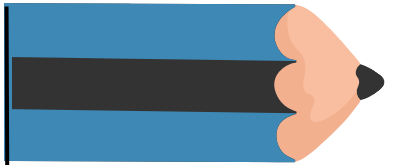
**Illustration:** A bequeaths to B, Rs. 10,000 of his property now invested in shares of the X Ltd. Such a legacy is not specific.

Where a bequest is made in general terms of a certain amount of any kind of stock, the legacy is not specific merely because the testator had, at the date of his Will, possessed the stock, to an equal or greater amount than the amount bequeathed.

**Illustration:** A bequeaths to B Rs. 5,000 5% government securities, A had at the date of the Will. In the given scenario, the legacy is not specific because name of the security is not given.



# Specific Legacy (2/2)



**Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.**

**Illustration:** A, having a lease of a house for a certain term of years, 15 years of which were unexpired at the time of A's death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although, if B lives for 15 years, C can take nothing under the bequest.



**Where property comprised in a bequest to two or more persons in succession is not specifically bequeathed, it shall, in the absence of any direction, be sold and the proceeds of the sale shall be invested in such securities as the High Court may by any general rule authorise or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the Will.**

**Illustration:** A, having a lease property for a certain term of years, bequeaths all his property to B for life, and, after B's death to C. The lease must be sold, the proceeds invested as stated above and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.void.



**If there is a deficit of assets to pay legacies, a specific legacy cannot be used to settle the other general legacies.**

# Demonstrative Legacy



A demonstrative legacy describes **the particular asset out of which the legacy is to be paid.**

**Illustration:** A bequeaths a ring presented by his mother to B and Rs. 50,000 to C, to be paid out of the debt due to A from W. The legacy to B is specific but the legacy to C is demonstrative.



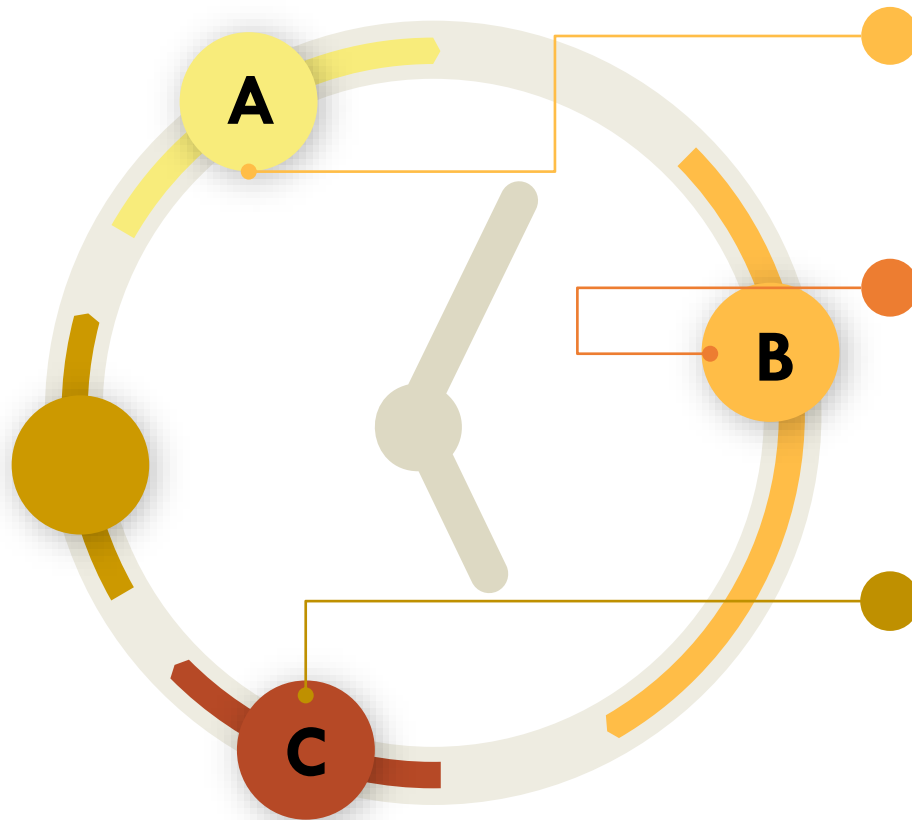
Where a **portion of a fund is specifically bequeathed** and a legacy is directed to be **paid out of the same fund**, the portion specifically bequeathed shall first be paid to the legatee, **and the demonstrative legacy shall be paid out of the residue of the fund and the balance deficient, if any, out of the general assets of the testator.**

**Illustration:** A bequeaths to B Rs. 1,000, being part of a debt due to A from W. He also bequeaths to C Rs. 1,000 to be paid out of the debt due to him from W. The debt due to A from W is only Rs. 1,500; of these Rs. 1,500, Rs. 1,000 belong to B and Rs. 500 are to be paid to C. C shall receive balance Rs. 500 out of the general assets of the testator.



# Ademption of Legacy (Extinction of legacy) (1/2)

**Ademption of a legacy** means that the legacy ceases to take effect, i.e., the legacy fails. Ademption of a legacy takes place when the asset which has been specifically bequeathed does not exist at the time of the testator's death or has been converted into property of a different kind. **Illustration:** A bequeaths to B a diamond ring presented to A by C. A in his lifetime sells or gives away the ring. The legacy is considered to be adeemed.



A demonstrative legacy is not adeemed by reason that the property on which it is charged by the Will does not exist at the time of the death of the testator or has been converted into property of a different kind, but it shall in such case be paid out of general assets of the testator.

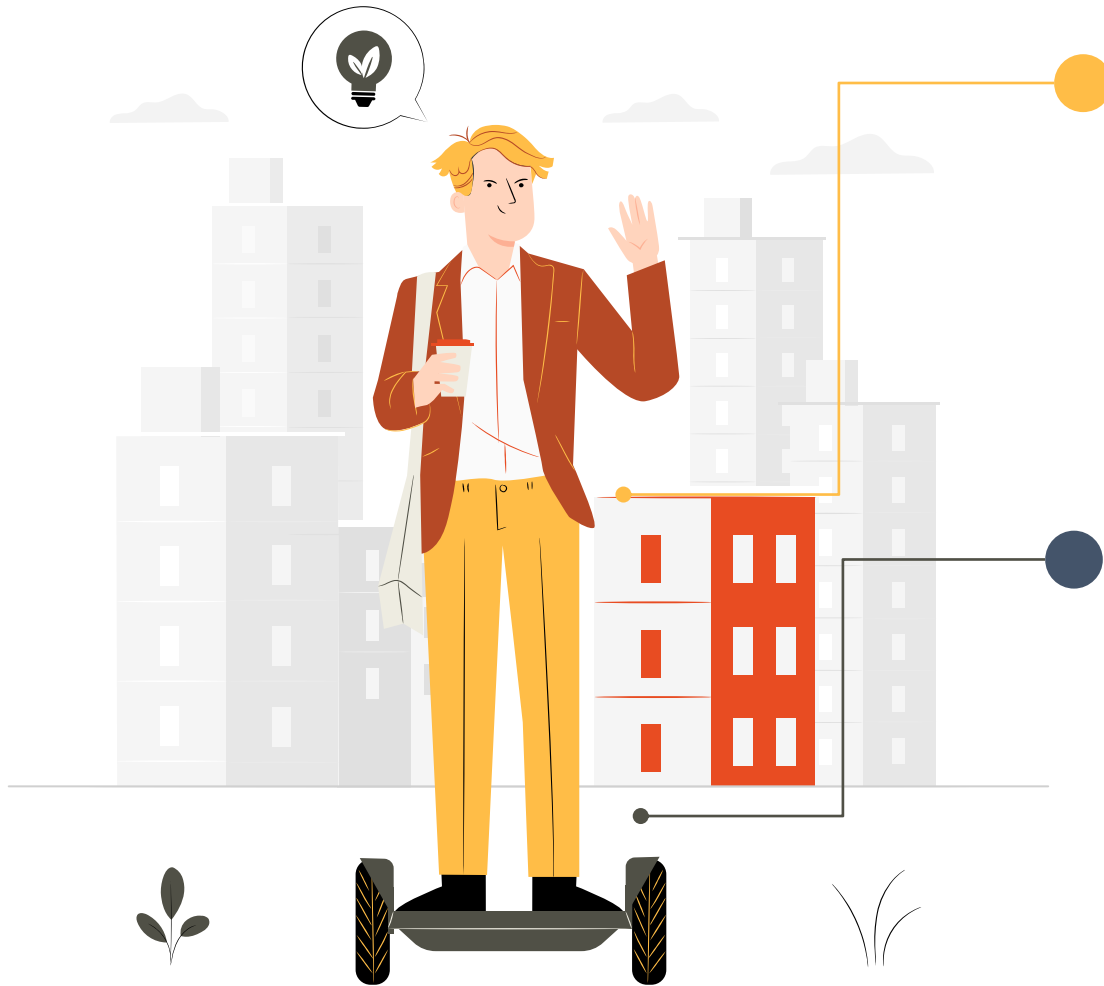
Where the asset specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed.

**Illustration:** A bequeaths to B his interest in certain policies of life insurance. A in his lifetime receives the amount of the policies. The legacy is adeemed.

The receipt by the testator of a part of an entire asset specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

**Illustration:** A bequeaths to B the debt due to A by C. The debt amounts to Rs. 10,000. C pays to A Rs. 5,000 the one-half of the debt. The legacy is revoked by ademption, so far as regards the Rs. 5,000 received by A.

# Ademption of Legacy (Extinction of legacy) (2/2)



A specific bequest of asset **under a description connecting them with a certain place is not adeemed by reason** that they have been removed from such place for any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

**Illustration:** A bequeaths to B all his household goods which shall be in or about his dwelling-house in Chennai at the time of A's death. The goods are removed from the house to save them from fire. A dies before they are brought back. This legacy is not considered as adeemed.

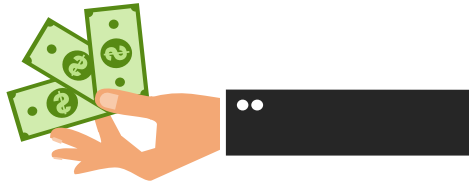
Where an asset specifically bequeathed **undergoes a change between the date of the Will and the testator's death** due to operation of law or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, **the legacy is not adeemed by reason of such change.**

**Illustration:** A bequeaths to B all the money which A has in the 5% Government bonds. The securities for the 5% bonds are converted during A's lifetime into 5% stock. This legacy is not considered as adeemed.

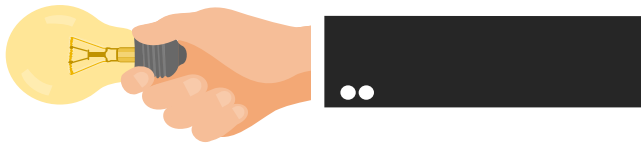
# Refund of Legacy



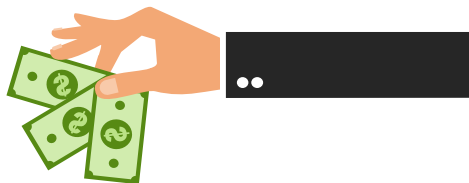
When an executor or administrator has **paid a legacy under the order of a Court**, he is entitled to call upon the legatee to refund in the event of the assets proving insufficient to pay all the legacies.



When an **executor or administrator has voluntarily paid a legacy**, he cannot call upon a legatee to refund in the event of the assets proving insufficient to pay all the legacies.



When the executor or administrator has paid away the assets in legacies, and he is afterwards **obliged to discharge a debt of which he had no previous notice**, he is entitled to call upon each legatee to refund in proportion.



A **creditor who has not received payment** of his debt may call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies; and whether the payment of the legacy by the executor or administrator was voluntary or not.



In any case the **refund shall be without interest**.

# Succession Knowledge Series

Please find below the list of completed alerts from the series. In case you have missed the previous alerts, click on the hyperlink for the completed alerts to refer the same.

1. [An Introduction to Succession Planning](#)
2. [Types of Succession in India.](#)
3. [An Introduction to Hindu Succession Act](#)
4. [Rules of Intestate Succession Male - Part 1](#)
5. [Rules of Intestate Succession Male - Part 2](#)
6. [Illustrations on Intestate Succession for Male](#)
7. [Intestate Succession for Hindu Female](#)
8. [Key Aspects in Hindu Succession Act, 1956](#)

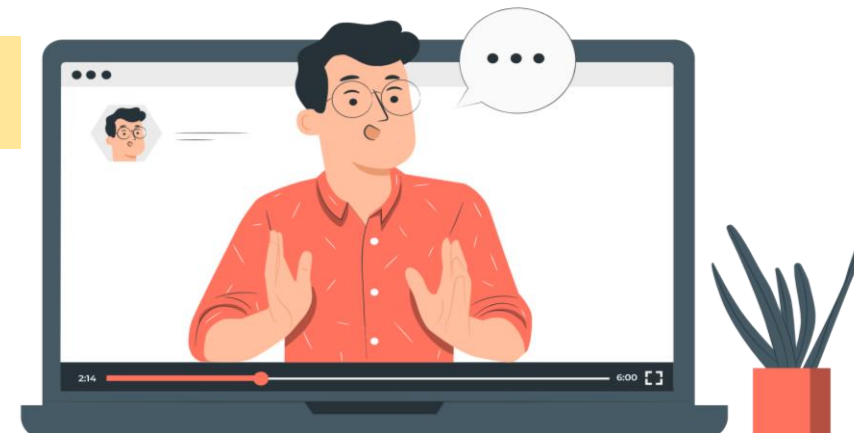
## Hindu Succession Act, 1956

## Indian Succession Act, 1925

9. [Introduction to Indian Succession Act – Part 1](#)
10. [Rules of Intestate succession for Christians](#)
11. [Introduction to Will - Indian Succession Act](#)
12. [Drafting of a Will](#)
13. [Registration - Will, Probate & Letter of Administration](#)
14. [Attestation, Alteration & Revocation of Wills](#)
15. [Bequest under the Will](#)
16. [Legacy under the Will](#)

In case you have downloaded the alert via LinkedIn, the links might not work, refer our website for the same - <https://www.m2kadvisors.com/>

Please click on the link to subscribe to our alerts – [M2K Alert Subscription](#)





Got more  
questions?

*Drop in your queries below and we'll try  
covering them in the upcoming series*

[Enter your questions here](#)



**[knowledge@m2k.co.in](mailto:knowledge@m2k.co.in)**



**M2K Advisors**

*In case you have downloaded the alert via LinkedIn, the link to the form might not work,  
refer the mentioned link for the same - <https://forms.gle/7Urx7gJFn8r5Ysob6>*

# THANK YOU

## Chennai - India

### M2K Advisors LLP

30/64, 7<sup>th</sup> Floor, Briley One,  
Ethiraj Salai, Egmore,  
Chennai - 600008  
Tamil Nadu

## Hyderabad - India

### M2K Advisors LLP

Manjeera Trinity Corporate  
JNTU Road, Plot No S2 ,  
Telangana- 500072  
Hyderabad

## Singapore

### M2K Advisors Pte Ltd

The Octagon,  
105 Cecil Street, #07-02  
Singapore 069534

## USA

### M2K Sai Advisors Inc

1 AUER CT,  
2nd Floor, East  
Brunswick  
New Jersey - 08816

## Reach us at:

[knowledge@m2k.co.in](mailto:knowledge@m2k.co.in)



This deck is intended for general guidance only and hence should not be considered as an advice or opinion. We do not accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this deck. On any specific matter, reference should be made to the appropriate advisor.