

CHAPTER 75

WILLS

Ordinances AN ORDINANCE TO MAKE PROVISION WITH RESPECT TO TESTAMENTARY DISPOSITIONS OF
 Nos. 21 of 1884, PROPERTY.
 11 of 1852,
 15 of 1876.
 1 of 1911.

[23rd December, 1844.]

Short title. 1. This Ordinance may be cited as the Wills Ordinance.

Parties may dispose of their property by will as they choose.

2. It shall be lawful for every person competent to make a will to devise, bequeath, and dispose of by will all the property within Sri Lanka which at the time of his death shall belong to him, or to which he shall be then entitled, of whatsoever nature or description the same may be, movable or immovable, and all and every estate, right, share, or interest in any property, and which if not so devised, bequeathed, or disposed of would devolve upon his heirs-at-law, executor, or administrator, to such person or persons not legally incapacitated from taking the same, as he shall see fit; and no will made either within or beyond the limits of Sri Lanka subsequently to the time when this Ordinance shall commence and take effect shall be or be liable to be set aside as invalid or inofficious, either wholly or in part, by reason that any person who by any law, usage, or custom now or at any time heretofore in force within Sri Lanka, would be entitled to a share or portion of the property of the testator, has been excluded from such share or portion, or wholly disinherited by or omitted in such will; but every testator shall have full power to make such testamentary disposition as he shall feel disposed, and in the exercise of such right to exclude from the legitimate or other portion any child, parent, relative, or descendant, or to disinherit or omit to mention any such person, without assigning any reason for such exclusion, disinheritance, or omission, any law, usage, or custom now or heretofore in force in Sri Lanka to the contrary notwithstanding:

Provided that nothing herein contained shall extend or be construed to extend to authorize or entitle any testator to dispose by will of any property or estate of his wife, or to exclude or deprive her of any life or other interest (belonging to her in her own right) in any property, and to which property, estate, or interest she would have been entitled if this Ordinance had not been passed.

3. No will made by any male under the age of twenty-one years, or by any female under the age of eighteen years, shall be valid, unless such person shall have obtained letters of *venia aetatis* or unless such person shall have been lawfully married.

At what age wills may be made

4. The President for the time being shall have and enjoy within and over each and every district of Sri Lanka all rights and powers in respect of granting letters of *venia aetatis*.

President may grant letters of *venia aetatis*.

5. Every will made beyond the limits of Sri Lanka containing any devise or disposition of immovable property situate within Sri Lanka, which shall have been duly made and executed according to and in conformity with the forms and solemnities prescribed by the law of the country where the same shall have been so made and executed, by any person who by the law of such country or of Sri Lanka is competent to make a will, shall be valid and effectual to alienate and pass the property in any immovable property so devised or disposed of by any such testator ;,and every will duly

As to the validity of foreign wills.

made and executed in manner aforesaid, in any place beyond the limits of Sri Lanka, by any person who shall be competent to make a will by the law of the place where he shall be domiciled at the time of making and executing the same, shall be valid and effectual to alienate and pass the property in any movable property by such will bequeathed or disposed of, anything contained in the Prevention of Frauds Ordinance or any other law or custom to the contrary notwithstanding.

As to the re-execution of wills.

6. Every will re-executed or republished, or revived by any codicil, shall for the purpose of this Ordinance be deemed to have been made at the time at which the same shall be so re-executed or republished or revived.

No survivorship as to property undivided held in shares, unless expressly stipulated for.

7. And for the avoiding of all doubts and questions as to the respective rights of persons jointly holding landed property situated within certain districts of Sri Lanka, it is further enacted and declared that all landed property situated in Sri Lanka which shall belong to two or more persons jointly, whether the same shall have come to them by grant, purchase, descent, or otherwise, is and shall be deemed and taken to be held by them in common, and upon the decease of any of such persons the said property so jointly possessed shall not remain or belong to the survivor, but all the right, share, and interest of the person so dying in and to the property so jointly possessed as aforesaid shall form part of his estate; and the person or persons to whom the same shall by him be devised or bequeathed, or to whom it shall devolve, shall thereupon become and be co-proprietors with the survivor in the said property, in the proportion and according to the share of such deceased person therein, unless the instrument under which the said property is jointly held and possessed, or any agreement mutually entered into between them, shall expressly provide that the survivor, upon such decease, shall become entitled to the whole estate.

8.* In all cases of marriages contracted either within any part of Sri Lanka or abroad¹ without a nuptial contract or settlement, the respective rights and powers of the parties during the subsistence of the marriage in and about the management, control, disposition, or alienation of any immovable property situated in any part of Sri Lanka, which belonged to either party at the time of the marriage or has been acquired during the coverture, and also their respective rights in or to such property, or any portion thereof, or estate or interest therein, either during the subsistence of the marriage or upon the dissolution thereof, shall in all cases be determined according to the law of the matrimonial domicile; and if the parties shall have entered into a nuptial contract or settlement by which their or either of their rights, powers, or interests in, to, or over any such property as aforesaid are ascertained and determined, or by which either party shall be declared entitled to a defined portion of or interest in the common estates, or to any provision by way of dowry or maintenance, or otherwise, out of the separate estate of the other of such parties during the subsistence of the marriage or at the dissolution thereof, then and in any such case neither of the parties shall be entitled, upon the dissolution of the marriage, to any other or greater portion, interest, or provision in or out of any such property as aforesaid, than in and by such nuptial contract or settlement such party shall be declared entitled to, whether or not it shall be expressly stated therein that such portion, interest, or provision was in lieu of the right or interest which such party would otherwise have had in such property as aforesaid if such nuptial contract or settlement had not been made.

Effect of previous settlement.

9. Whenever in this Ordinance the word Interpretation. "will" is used it shall be construed to extend to a testament and to a codicil, and to any other testamentary disposition;

and whenever the words "landed property" are used they shall be construed to extend to houses and buildings erected on the same, and to any estate, right, or interest (other than a chattel interest) therein;

* This section is repeated so far as it is inconsistent with the provisions of the Matrimonial Rights and Inheritance Ordinance and the Jaffna Matrimonial Rights and Inheritance Ordinance,

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and whenever the word "representative" and on behalf of another, as his guardian,
is used it shall be construed to mean the tutor, curator, or attorney, as the case may
party legally entitled to appear and act for be.