

Indian Succession Act, 1925

Chapter 1 - Of Grant of Probate and Letters of Administration

(1) If the deceased has died intestate and was a Hindu, Muhammadan, Buddhist, Sikh or jaina or an exempted person, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.

(2) When several such persons apply for such administration, it shall be in the discretion of the Court to grant it to any one or more of them.

(3) When no such person applies, it may be granted to a creditor of the deceased.

Section 219 - Where deceased is not a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person

If the deceased has died intestate and was not a person belonging to any of the classes referred to in section 218, those who are connected with him, either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated, namely:-

(a) If the deceased has left a widow, administration shall be granted to the widow, unless the Court sees cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

Illustrations

(i) The widow is a lunatic or has committed adultery or has been barred by her marriage settlement of all interest in her husband's estate. There is cause for excluding her from the administration.

(ii) The widow has married again since the decease of her husband. This is not good cause for her exclusion.

(b) If the Judge thinks proper, he may associate any person or persons with the widow in the administration who would be entitled solely to the administration if there were no widow.

(c) If there is no widow, or if the Court sees cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate:

Provided that, when the mother of the deceased is one of the class of persons so entitled, she shall be solely entitled to administration.

(d) Those who stand in equal degree of kindred to the deceased are equally entitled to administration.

(e) The husband surviving his wife has the same right of administration of her estate as the widow has in respect of the estate of her husband.

(f) When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration and willing to act, they may be granted to a creditor.

(g) Where the deceased has left property in ¹ [India], letters of administration shall be granted according to the foregoing rules, notwithstanding that he had his domicile in a country in which the law relating to estate and intestate succession differs from the law of ¹ [India].

1. Substituted by Act 3 of 1951, section 3 and schedule, for "the State".

Section 219 - Where deceased is not a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person

If the deceased has died intestate and was not a person belonging to any of the classes referred to in section 218, those who are connected with him, either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated, namely:-

(a) If the deceased has left a widow, administration shall be granted to the widow, unless the Court sees cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

Illustrations

(i) The widow is a lunatic or has committed adultery or has been barred by her marriage settlement of all interest in her husband's estate. There is cause for excluding her from the administration.

(ii) The widow has married again since the decease of her husband. This is not good cause for her exclusion.

(b) If the Judge thinks proper, he may associate any person or persons with the widow in the administration who would be entitled solely to the administration if there were no widow.

(c) If there is no widow, or if the Court sees cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate:

Provided that, when the mother of the deceased is one of the class of persons so entitled, she shall be solely entitled to administration.

(d) Those who stand in equal degree of kindred to the deceased are equally entitled to administration.

(e) The husband surviving his wife has the same right of administration of her estate as the widow has in respect of the estate of her husband.

(f) When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration and willing to act, they may be granted to a creditor.

(g) Where the deceased has left property in ¹ [India], letters of administration shall be granted according to the foregoing rules, notwithstanding that he had his domicile in a country in which the law relating to estate and intestate succession differs from the law of ¹ [India].

1. Substituted by Act 3 of 1951, section 3 and schedule, for "the State".

Section 220 - Effect of letters of administration

Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

Section 221 - Acts not validated by administration

Letters of administration do not render valid any intermediate acts of the administrator tending to the diminution or damage of the intestate's estate.

Section 222 - Probate only to appointed executor

(1) Probate shall be granted only to an executor appointed by the Will.

(2) The appointment may be expressed or by necessary implication.

Illustrations

(i) A Will that C be his executor if B Will not. B is appointed executor by implication.

(ii) A gives a legacy to B and several legacies to other persons among the rest to his daughter-in-law C, and adds "but should the within-named C be not living I do constitute and appoint B my whole and sole executrix". C is appointed executrix by implication.

(iii) A appoints several persons executors of his Will and codicils and his nephew residuary legatee, and in another codicil are these words, "I appoint my nephew my residuary legatee to discharge all lawful demands against my Will and codicils signed of different dates". The nephew is appointed an executor by implication.

Section 223 - Persons to whom probate cannot be granted

Probate cannot be granted to any person who is a minor or is of unsound mind ¹ [nor to any association of individuals unless it is a company which satisfies the conditions prescribed by rules to be made ² [by notification in the Official Gazette,] by the ³ [State Government], in this behalf].

1. Added by Act 17 of 1931, section 2. The words "nor, unless the deceased was a Hindu, Muhammadan, Buddhist, Sikh or jaina or an exempted person, to a married woman without the previous consent of her husband: which originally occurred at the end of this section had been omitted by Act 18 of 1927, section 2.

2. Inserted by Act 20 of 1983, section 2 and Schedule (w.e.f. 15-3-1984).

3. The words "G.G in C" have been successively amended by the A.O. 1937 and the A.O. 1950 to read as above.

Section 223 - Persons to whom probate cannot be granted

Probate cannot be granted to any person who is a minor or is of unsound mind ¹ [nor to any association of individuals unless it is a company which satisfies the conditions prescribed by rules to be made ² [by notification in the Official Gazette,] by the ³ [State Government], in this behalf].

1. Added by Act 17 of 1931, section 2. The words "nor, unless the deceased was a Hindu, Muhammadan, Buddhist, Sikh or jaina or an exempted person, to a married woman without the previous consent of her husband: which originally

occurred at the end of this section had been omitted by Act 18 of 1927, section 2.

2. Inserted by Act 20 of 1983, section 2 and Schedule (w.e.f. 15-3-1984).

3. The words "G.G in C" have been successively amended by the A.O. 1937 and the A.O. 1950 to read as above.

Section 224 - Grant of probate to several executors simultaneously or at different times

When several executors are appointed, probate may be granted to them all simultaneously or at different times.

Illustration

A is an executor of B's Will by express appointment and C an executor of it by implication. Probate may be granted to A and C at the same time or to A first and then to C, or to C first and then to A.

Section 225 - Separate probate of codicil discovered after grant of probate

(1) If a codicil is discovered after the grant of probate, a separate probate of that codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the Will.

(2) If different executors are appointed by the codicil, the probate of the Will shall be revoked, and a new probate granted of the Will and the codicil together.

Section 226 - Accrual of representation to surviving executor

When probate has been granted to several executors, and one of them dies the entire representation of the testator accrues to the surviving executor or executors.

Section 227 - Effect of probate

Probate of a Will when granted establishes the Will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Section 228 - Administration, with copy annexed, of authenticated copy of Will proved abroad

When a Will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of the State, whether within or beyond the limits of ¹ [India], and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.

1. Substituted by the A.O. 1950, for "His Majesty's dominions".

Section 228 - Administration, with copy annexed, of authenticated copy of Will proved abroad

When a Will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of the State, whether within or beyond the limits of ¹ [India], and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.

1. Substituted by the A.O. 1950, for "His Majesty's dominions".

Section 229 - Grant of administration where executor has not renounced

When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship:

Provided that, when one or more of several executors have proved a Will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Section 230 - Form and effect of renunciation of executorship

The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the Will appointing him executor.

Section 231 - Procedure where executor renounces or fails to accept within time limited

If an executor renounces or fails to accept an executorship within the time limited for the acceptance or refusal thereof, the Will may be proved and letters of administration, with a copy of the Will annexed, may be granted to the person who would be entitled to administration in case of intestacy.

Section 232 - Grant of administration of universal or residuary legatees

When

- (a) the deceased has made a Will, but has not appointed an executor, or
 - (b) the deceased has appointed an executor who is legally incapable or refuses to act, or who has died before the testator or before he has proved the Will, or
 - (c) the executor dies after having proved the Will, but before he has administered all the estate of the deceased, a universal or a residuary legatee may be admitted to prove the Will, and letters of administration with the Will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.
-

Section 233 - Right to administration of representative of deceased residuary legatees

When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the Will annexed as such residuary legatee.

Section 234 - Grant of administration where no executor, nor residuary legatee, nor representative of such legatee

When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the Will, and letters of administration may be granted to him or them accordingly.

Section 235 - Citation before grant of administration to legatee other than universal or residuary

Letters of administration with the Will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next-of-kin to accept or refuse letters of administration.

Section 236 - To whom administration may not be granted

Letters of administration cannot be granted to any person who is a minor or is of unsound mind, ¹ [nor to any association of individuals unless it is a company which satisfies the conditions prescribed by rules to be made ² [by notification in the Official Gazette,] by the ³ [State Government] in this behalf].

1. Added by Act 17 of 1931, section 2. The words "nor, unless the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, to a married woman without the previous consent of her husband" which originally occurred at the end of this section had been omitted by Act 18 of 1927, section 2.

2. Inserted by Act 20 of 1983, section 2 and schedule (w.e.f. 15-3-1984).

3. The words "G.G. in C" have been successively amended by the A.O. 1937 and the A.O. 1950 to read as above.

Section 236 - To whom administration may not be granted

Letters of administration cannot be granted to any person who is a minor or is of unsound mind, ¹ [nor to any association of individuals unless it is a company which satisfies the conditions prescribed by rules to be made ² [by notification in the Official Gazette,] by the ³ [State Government] in this behalf].

1. Added by Act 17 of 1931, section 2. The words "nor, unless the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, to a married woman without the previous consent of her husband" which originally occurred at the end of this section had been omitted by Act 18 of 1927, section 2.

2. Inserted by Act 20 of 1983, section 2 and schedule (w.e.f. 15-3-1984).

3. The words "G.G. in C" have been successively amended by the A.O. 1937 and the A.O. 1950 to read as above.

Section 236A - Laying of rules before State Legislature

¹ [236A. Laying of rules before State Legislature

Every rule made by the State Government under section 223 and section 236 shall be laid, as soon as it is made, before the State Legislature.]

1. Inserted by Act 20 of 1983, section 2 and schedule (w.e.f. 15-3-1984).

Section 236A - Laying of rules before State Legislature

1 [236A. Laying of rules before State Legislature

Every rule made by the State Government under section 223 and section 236 shall be laid, as soon as it is made, before the State Legislature.]

1. Inserted by Act 20 of 1983, section 2 and schedule (w.e.f. 15-3-1984).
