

While inheriting a property...

A crucial element of property inheritance is that it drains a lot of time, energy and resources of the legal heir. Sraboni Haralalk simplifies this process for you with a few guidelines

Around two-thirds, or 66% of all court cases in India are land and property disputes, and 10% are related to family matters, a survey by a legal advocacy group has found. Lakhs of cases have already dragged on for over five years. So, a majority of these civil cases are unlikely to be resolved soon. There is an important lesson in this. Long-drawn legal battles often take a toll on health and finances on both sides of litigation. Where inheritance is concerned, there is a third casualty— family and relationships. And those are the ones that are stressful and hurt the most.

In this light, how can one minimise or avoid dispute over inherited property? The best way to prevent discord over willed inheritance is to secure it from claimants both within and outside the family. So, it's important to seek legal advice and initiate measures to transfer the property in the name of the inheritor.

I would, however, like to point out a crucial element of property inheritance — even a Will can be contested in court by other self-proclaimed heirs, especially if the value of property is substantial. This can cause a drain on the time, energy and resources of the legal heir. Also, in the case of death without a Will, the legal heir must be able to prove his or her claim according to appropriate succession laws. Here are a few essential legalities, which anyone who inherits immovable assets like land and building should first look into:

Mutation of title

The first step after a property is inherited is to get it transferred in the name of the legal heir. This is known as mutation of title of ownership. Once this is done, the inheritor is free to hold on to the property, give it away as a gift, sell it or lease it out to others. It's always simpler to transfer a willed property in one's name. In the absence of a Will, however, two or more legal heirs mutually decide on the admin-



EASY The path to legalising the inheritance gets simpler if there is home loan insurance.

istrator for obtaining Letters of Administration. These are essential to appoint the right people to handle a deceased person's estate. Thereafter, the property can be distributed among the heirs by mutual consent or through the courts. All legal heirs can, if they so wish, pass on their share of property to one or more beneficiaries.

Legal documentation

The division of property by mutual consent or a court settlement is followed by documentation. The Will is the key document. It establishes the primacy of the rightful owner(s) of the property and needs to be produced at the time of transfer of title from the deceased to one or more heirs. If the Will and related documents are in order, then, the transfer can take place with little or no hassle. So, it's

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critical to ensure that all property documents are legal and in place.

Liabilities on inherited property

In the event the inherited property has an outstanding loan against it, the liability automatically passes on to the inheritor. Besides this, mortgaged property can be transferred to the legal heir only after the written consent of the lender. What this means is that, if a person dies while still owing money on a loan, he or she leaves behind both property, as well as liability.

The path to legalising the inheritance gets simpler if there is home loan insurance. Here, the insurer pays out the outstanding loan to the lender. Following this, the inheritor gets a 'loan clearance' certificate from the lender, along with the original property documents. If the property inherited has been let out, the

inheritor is obliged to adhere to the original lease agreement signed between the deceased (lessor) and the lessee. Similarly, the inheritor becomes a party to any dispute or litigation related to the property.

Taxes & other payments

The new owner of the property is duty-bound to pay taxes and levies such as property tax and stamp duty. If there is income from property, then the inheritor is also liable to pay income tax. And if the property has been leased out, then the heir must also pay the maintenance bills and other taxes. Thus, the onus of clearing all outstanding and future levies is on the inheritor.

Where there's a Will, there's usually a war — in the courtrooms. So, in order to avoid protracted legal battles and mental

stresses, inheritors should waste no time in getting willed property transferred in their names. This will ease confusion and remove any form of ambiguity on the part of ownership.

(The writer is executive director, Wodehouse Capital Advisors)

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