REPEAL OF SECTION 213, INDIAN SUCCESSION ACT, 1925 – A QUIET BUT TRANSFORMATIVE CHANGE

INTRODUCTION

The Repealing and Amending Act, 2025, notified in the Official Gazette on 21 December 2025, has omitted Section 213 of the Indian Succession Act, 1925. This amendment marks a significant shift in the probate regime governing testamentary succession in India, particularly within the erstwhile Presidency towns.

WHAT CHANGED?

Until now, Wills made by Hindus, Buddhists, Sikhs, Jains and Parsis, where executed in or relating to immovable property situated within the ordinary original civil jurisdiction of the High Courts at Mumbai, Chennai and Kolkata, could not be enforced without first obtaining probate or letters of administration.

This requirement applied even in uncontested cases—leading to delay, cost, and procedural burden—while other communities were exempt, creating a long-standing and questionable distinction.

WITH THE REPEAL OF SECTION 213

- Probate is no longer a statutory precondition for enforcing testamentary rights, even in the erstwhile Presidency towns.
- Wills can now be relied upon directly before courts, revenue authorities, financial institutions and statutory bodies.
- The position is brought at par with the rest of India.

Importantly, the repeal is procedural, not substantive. The law governing execution, attestation, validity and proof of Wills remains unchanged.

PRACTICAL IMPACT

While the reform reduces time and cost, it also removes the automatic judicial validation that probate provided. Probate will now function as a strategic safeguard rather than a legal mandate—particularly relevant for high-value estates, anticipated disputes, or title-sensitive transactions.

This marks a decisive shift from a compulsory probate regime to a choice-based, risk-sensitive model, requiring practitioners and testators alike to recalibrate estate planning and succession strategies.

A small amendment on paper, but one with far-reaching consequences for succession practice.

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