

THE REVOCATION OF WILLS - A COMPARATIVE STUDY

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I. Introduction

The purpose of this study is to examine certain significant aspects of the law relating to the revocation of wills. It is proposed to do a comparative study of the relevant law in Sri Lanka, England, South Africa and India.

Voet¹ commenting on revocations, states : “Cutting, fouling, burning up and smashing up of the tablets of a last will are like erasures. The tablets moreover are erased or cut either designedly or undesignedly.”

What is significant, however, is that when the scope and ambit of the law relating to the revocation of wills is examined, one is surprised to note the extent to which similarities exist in the different jurisdictions.

It is proposed to examine the different statutory provisions applicable to the revocation of wills in the different jurisdictions, together with an examination of the relevant case law.

II. The revocation of wills in Sri Lanka

In Sri Lanka, the statutory provision relating to the revocation of wills is embodied in the Prevention of Frauds Ordinance.² S.6 of the said Ordinance provides as follows :

“No will, testament, or codicil, or any part thereof, shall be revoked otherwise than by the marriage of the testator or testatrix, or by another will, testament, or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will, executed, or by the burning, tearing or otherwise destroying the same by the testator or testatrix, or by some person in his or her presence, and by his or her direction, with the intention of revoking the same.”

Thus, it would seem that the legal requisites relating to the revocation of a will in Sri Lanka appear to be statutorily embodied; under no other circumstances may a will be revoked, other than in the manner provided for in S.6 of the Ordinance,

The Sri Lankan case law relating to the revocation of wills warrants some analysis.

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