

Splitting inheritance in a just way

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

Shaykh Abdul-Azeez ibn Baaz (رَحْمَةُ اللَّهِ)¹ in his Majmoo Fataawaa vol. 20 page 52 was asked the following question:

Question: Is it permissible for a father to gift one of his children money, or part of his estate – without giving the rest of his children? As this child is helpful to his father unlike the rest of the children.

Answer: It is not for the father to specify some of his children over others regarding any wealth that he owns; by specifying a certain child and favouring him, due to the saying of the Prophet (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ)²:

"Fear Allaah and be just between your children."³

And on page 94 Shaykh Ibn Baaz (رَحْمَةُ اللَّهِ) was asked:

Question: A woman inherited wealth from her father, and her father specified her as the (single) recipient of all of his inheritance, with the exclusion of her brother. He bequeathed with a bequest regarding this wealth, and forbade his daughter from giving her brother any wealth after his passing. Is it permissible for her to contradict her father's bequest – if she were to give her brother all of the inheritance so that he can manage it; even if their father refused that? May Allaah reward you with good.

Answer: It is not permissible for a Muslim to specify some inheritors (over others) with anything that exceeds his (Islamic) right; due to the saying of the Prophet (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ):

"Verily Allaah has given each rightful person their right, therefore there is no bequest (in favour) of an inheritor."⁴

¹ (رَحْمَةُ اللَّهِ) (rahimahullaah) May Allaah have mercy on him

² (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ) (sallallaahu 'alayhi wa sallam) May the peace and blessings of Allaah be upon him

³ Reported by Bukhaaree no. 2587 and Muslim no. 1623.

⁴ Reported by at-Tirmidhee no. 2120, an-Nasaaee no. 3641, Aboo Daawood no. 2870, & Ibn Maajah no. 2713; declared authentic by Shaykh al-Albaanee (رَحْمَةُ اللَّهِ).

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Therefore what is obligatory is that the inheritance is split between them according to the division that Allaah has set. And if they are both eligible for inheritance then everyone is given their lawful due right. And if there is differing regarding such a matter then it is to be raised with an Islaamic Court of Law. And Allaah is the One Who grants success.

Shaykh ibn Baaz (رَجَمَهُ اللهُ) was also asked:

Question: A man wrote all that he owned from wealth exclusively to his daughters before he died, with the intent of preventing the rest of the inheritors from inheriting. So is that which he did permissible or not? And if such an act is not permissible then what is to be done regarding his inheritance?

Answer: If he bequeathed his wealth to his daughters, or to some of the inheritors to the exclusion of others then such a bequest is futile; due to the saying of the Messenger (صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ):

"Verily Allaah has given each rightful person their right, therefore there is no bequest (in favour) of an inheritor."⁵

So it is not (allowed) for anyone to bequeath wealth to the inheritors, not his daughters nor other than them. Rather the wealth is for them all. As for if he bequeathed a third of his wealth – or less than that – to other than the inheritors, then that is correct. It is permissible for him to bequest a third of his wealth or less – however he can only bequest to other than the inheritors.

⁵ Reported by at-Tirmidhee no. 2120, an-Nasaaee no. 3641, Aboo Daawood no. 2870, & Ibn Maajah no. 2713; declared 'Saheeh', authentic by Shaykh al-Albaanee rahimahullaah