

144557 - He cannot provide separate accommodation for his wife and her family want to annul the marriage. What are the consequences of that?

the question

My sister got married to a man six months ago and the marriage has not been consummated until now. One condition of the marriage contract was that the marital home would be a separate house, but the husband has not been able to fulfil this condition and it has been a long time, as you can see. Now we — the wife's family — want the girl to be divorced. What is the ruling to be followed in order to return the dowry and gifts?.

Detailed answer

Accommodation in a separate marital home is one of the rights that the wife has over the husband. If that was stipulated at the time of the marriage contract, this is a confirmation of this duty of the husband, and if he does not fulfil the conditions stipulated by the wife and her family, they have the right to annul the marriage.

See the answer to Question no. [111919](#).

As the husband had delayed it for a long time and has not been able to fulfil this condition, and this delay is causing harm to the wife and her family, he has two choices:

i. He can state that he is not able to fulfil this condition, and hence has to divorce her. As a result of that divorce, she will be entitled to half of her mahr — both that which has been paid and that which was delayed — and she does not have to observe 'iddah if he did not consummate the marriage with her or was not alone with her in such a way that he could have been intimate with her.

She is entitled to the mahr in full and she has to observe 'iddah if he did consummate the marriage with her or was alone with her in such a way that he could have been intimate with her, even if that did not actually happen.

ii.Or if he states that he will be able to do that, but it will take some time, then people of wisdom should mediate between the two sides, so as to give him a reasonable amount of time to fulfil the condition, and if he does, all well and good, otherwise the wife's family have the right to annul the marriage.

With regard to the gifts that he gave her, he has no right to them, because the basic principle is that taking back a gift is haraam, and because the divorce was his fault, not the wife's.

And Allah knows best.