

72793 - He divided his wealth before he died and he gave to some of his children and not others

the question

My father divided all that he owned, which is the house in which we grew up and his possessions, between three of his children and not the others, i.e., two sisters, one brother and myself.

My brothers are well off, but my brother and I are working abroad for a salary and my sisters are married. When this division was done and they took possession, we were abroad. Despite that, we have not done anything to anger our parents. The evidence is that they pray for us and say that they forgive us. Is it permissible for my father to give to one child and not the other in such a matter? What do you advise us to say to our parents? We have heard that this action is against sharee'ah.

Detailed answer

Firstly:

What your father has done is to give to some of his children and not to others, and it cannot be regarded sharing out his wealth among his heirs when he is still alive, because he has not given to all his heirs, rather he has singled out some of his children.

Singling out some of one's children for gifts for no reason is haraam.

The Prophet (peace and blessings of Allaah be upon him) refused to bear witness to such a gift, and he called it injustice. That is according to the report narrated by al-Bukhaari (2586) and Muslim (1623) from al-Nu'maan ibn Basheer (may Allaah be pleased with him), who said that his father brought him to the Messenger of Allaah (peace and blessings of Allaah be upon him) and said: "I have given a slave to this son of mine." He said: "Have you given a similar gift to all your children?" He said: "No." He said: "Then take it back."

Al-Bukhaari (2587) narrated that 'Aamir said: I heard al-Nu'maan ibn Basheer (may Allaah be pleased with him) on the minbar saying: "My father gave me a gift and 'Amrah bint Rawaahah (his mother) said: 'I will not be happy until you ask the Messenger of Allaah (peace and blessings of Allaah be upon him) to bear witness.' So he went to the Messenger of Allaah (peace and blessings of Allaah be upon him) and said: 'I have given a gift to my son from 'Amrah bint Rawaahah, and she told me to ask you to bear witness, O Messenger of Allaah.' He said: 'Have you given a similar gift to all your children?' He said: 'No.' He said: 'Fear Allaah and treat your children fairly.' So he came back and took back his gift."

According to a report also narrated by al-Bukhaari (2651), the Prophet (peace and blessings of Allaah be upon him) said: "Do not ask me to bear witness to injustice."

According to a report narrated by Muslim (1623), al-Nu'maan ibn Basheer (may Allaah be pleased with him) said: My father took me to the Messenger of Allaah (peace and blessings of Allaah be upon him) and said: "O Messenger of Allaah, bear witness that I have given such and such of my wealth to al-Nu'maan." He said: "Did you give to all your children the same as you have given to al-Nu'maan?" He said: "No." He said: "Let someone else bear witness to that for you." Then he said: "Would you not like all your children to honour you equally?" He said: "Yes." He said: "Then no (I will not bear witness)."

Secondly:

The one who has committed such an injustice must repent to Allaah and take back his gift, or give something similar to all his children, because the Prophet (peace and blessings of Allaah be upon him) said: "Take it back."

Ibn Qudaamah (may Allaah have mercy on him) said: A man must be fair in giving gifts to his children, and not single out one of them or do anything to indicate that he prefers one of them over another. If he singles out one of them for giving, or he shows that he prefer one over another, then he is sinning, and he must treat them all fairly by means of one of two things, either taking back what he gave to some in exclusion of others, or giving to the others. Tawoos said: That is not permissible, not even if you show preference to one by

giving him a burned loaf of bread (that you do not give to the others). This was also the view of Ibn al-Mubaarak, and something similar was narrated from Mujaahid, and 'Urwah. End quote from al-Mughni (5/387).

If the ones who were not given anything agree to that willingly, then there is no sin on the father for singling out some of his children, because the right belonged to their siblings, and it is waived if they agree. But it is better for him not to do that even if they agree.

Shaykh Ibn Baaz (may Allaah have mercy on him) said:

The father must treat his children fairly, both males and females, according to the guidelines on inheritance. It is not permissible for him to single out some of them for something and not the others, unless that is with the approval of those who are not given anything, if they are of sound mind, and they are not agreeing out of fear of their father, rather they are agreeing willingly, without any threat from their father or fear on the part of the child. But not differentiating between them is better in all cases and is more conducive to harmony, because the Prophet (peace and blessings of Allaah be upon him) said: "Fear Allaah and treat your children fairly." Saheeh – agreed upon.

End quote from Fataawa al-Shaykh Ibn Baaz (20/51).

Thirdly:

In the answer to question no. [36872](#) we stated that there is nothing wrong with giving to some of one's children and not others if there is a reason for doing that, such as if he is in need and is poor, or if he is a seeker of knowledge and so on. If there is a shar'i reason for your father singling out these siblings for gifts, then there is no sin on him. But if there is no shar'i reason and you do not agree to that, then he has to take back the gift and treat you all fairly.

Fourthly:

If you do not agree to that, then you must advise your father kindly and explain to him that he has to treat you all fairly. You may need to explain that to him with the shar'i evidence,

which has been explained in the answer to question no. [67652](#).

And Allaah knows best.