

8852 - Taking the deceased back to his homeland

the question

My friends brother inlaw expired last week(May his soul rest in peace). After his death his brother & other relatives took his dead body to their village which was at about 14 hours drive from the place where he used to live.His wife told his brothers that her husband has left a written statement(wasiyah) that he should be burried immediately at the same place where he will die. No one listened to her & later his written statement with his signatures was found in his papers. Has his brother & other relatives committed a sin? What should be done now? Is their any Sadaqat which has to be paid by the relatives on not following the Wasiyah (written statement) or what?.

Detailed answer

This issue may be discussed from two angles:

- 1 - The issue of acting upon the wishes of the deceased
- 2 - The ruling on moving the deceased from the land in which he died to another land.

With regard to the first issue, it is obligatory to carry out the wishes of the deceased, whether he left a will describing something obligatory or something mustahabb.

See al-Sharh al-Mumti', 5/333

With regard to the second issue:

Shaykh Ibn Qudaamah said:

The deceased should not be moved from his land to another land unless that is for a valid reason. This is the view of al-Awzaa'i and Ibn al-Mundhir...and because it is easier and it avoids any delay that may cause the corpse to start decaying before burial. But if there is a valid reason for doing so, then it is permissible.

Al-Mughni, 2/193-194

The Standing Committee said concerning this issue:

The Sunnah at the time of the Prophet (peace and blessings of Allah be upon him) and the time of the Sahaabah was to bury the deceased in the graveyard of the land or city in which he died, and to bury the martyrs where they died. It is not proven in any hadeeth or report that any of the Sahaabah was moved to a place other than the graveyard of the land or city in which he died, or to another place nearby.

Because of that, the majority of fuqaha' said: it is not permissible to move the deceased before burial to a land other than the one in which he died, unless that is for a valid reason such as the fear that his grave may be violated if he is buried where he died, or that it may be mistreated, in which case he must be moved to a place where his grave will be safe.

For example, moving him to his homeland so that his family will feel better and will be able to visit his grave is permissible.

But in such cases that is subject to the condition that there is no fear that the corpse may start to decay because of the delay in burial, and that his sanctity will not be violated. If there is no need to move him and these conditions are not met, then it is not permissible to move him.

The Committee believes that every deceased person should be buried in the graveyard of the city in which he dies, and that they should not be moved to another city unless that is for a valid reason, in accordance with the Sunnah and the practice of the salaf or early generations of this ummah, so as to avoid transgressing the rules of sharee'ah, to bury the deceased quickly as encouraged in sharee'ah, to protect the deceased from the procedures that may be done to his body to prevent decay, and to avoid the extravagance of spending large amounts of money unnecessarily and for which there is no legitimate shar'i need, as well as protecting the rights of the heirs and saving this money so that it may be spent in the proper ways.

This is the fatwa signed by the Committee. May Allah send blessings upon our Prophet Muhammad and upon his family and companions.

Fatawa Islamiyyah, 2/31, 32

With regard to what the relatives of the deceased have done:

If they went against the will and did not act in accordance with the wishes of the deceased after his wife told them because they were did not believe that she was telling the truth, then there is no sin on them, because they did not go against his wishes deliberately. Allah says (interpretation of the meaning):

“And there is no sin on you concerning that in which you made a mistake, except in regard to what your hearts deliberately intend”

[al-Ahzaab 33:5]

However, if they believed her but they did not care and they went against the will, then they are sinners who have transgressed against the rights of the deceased.

With regard to their moving the deceased this distance, if there was no valid reason for doing so then this is a second transgression against the rights of the deceased, because part of honouring the deceased is to prepare him and bury him quickly, as the scholars have said.

See al-Madkhil, 3/237, by Abu'l-Haaj al-Maaliki.

So they have to repent and seek forgiveness, and regret what they have done, and make du'aa' for the deceased, but they do not have to give anything in charity, but if they do so then that will be good, for charity is one of the means of forgiveness and expiation of sins.

And Allah knows best.