



147913 - His grandfather left instructions that the females should be deprived of their inheritance; should they follow this with regard to their father's legacy?

the question

My grandfather left a will stating that the males were to be given and not the females. I cannot find any will for my father, so should we act in accordance with my grandfather's will?.

Detailed answer

Praise be to Allah.

Firstly:

A will which deprives the females of their inheritance is an unjust and haraam will, because it is contrary to the division of the estate as enjoined by Allah, may He be exalted, in His Book, and He issued a warning to the one who goes against that. Allah says concerning inheritance (interpretation of the meaning):

“These are the limits (set by) Allaah (or ordainments as regards laws of inheritance), and whosoever obeys Allaah and His Messenger (Muhammad ﷺ) will be admitted to Gardens under which rivers flow (in Paradise), to abide therein, and that will be the great success.

14. And whosoever disobeys Allaah and His Messenger (Muhammad ﷺ), and transgresses His limits, He will cast him into the Fire, to abide therein; and he shall have a disgraceful torment”

[al-Nisa' 4:13, 14].

It is not permissible for the heirs to act upon this unjust will; rather they have to give the women their rightful share of the legacy.



It should be noted that it is not permissible to bequeath to heirs, whether male or female, because of the report narrated by Abu Dawood (2870), al-Tirmidhi (2120), al-Nasaa'i (4641) and Ibn Maajah (2713) from Abu Umaamah (may Allah be pleased with him) who said: I heard the Messenger of Allaah (blessings and peace of Allah be upon him) say: "Allaah has given each person who has rights his rights, and there is no bequest for an heir." This hadeeth was classed as saheeh by al-Albaani in Saheeh Abi Dawood.

This will should not be executed except with the consent of the heirs, because the Messenger (blessings and peace of Allah be upon him) said: "It is not permissible to make a bequest to an heir unless all the heirs agree." Narrated by al-Daraqutni; classed as hasan by al-Haafiz Ibn Hajar in Bulooḡ al-Maraam. Ibn Qudaamah (may Allah have mercy on him) said in al-Mughni (6/58): If he makes a bequest to his heir and the other heirs do not allow that, it is not valid, and there is no difference of opinion among the scholars concerning that. Ibn al-Mundhir and Ibn 'Abd al-Barr said: There is consensus among the scholars concerning that. There are reports from the Messenger of Allah (blessings and peace of Allah be upon him) to that effect. Abu Umaamah narrated: I heard the Messenger of Allaah (blessings and peace of Allah be upon him) say: "Allaah has given each person who has rights his rights, and there is no bequest for an heir." Narrated by Abu Dawood, Ibn Maajah and al-Tirmidhi. ... If they do allow it, then it is permissible according to the majority of scholars. End quote.

Based on that, if the grandfather made a will to his male sons, this is a bequest to an heir, and should not be executed except with the agreement of the other heirs, namely the females.

Secondly:

Your father did well not to make a bequest to any of his heirs. If the deceased did not make any bequest then none of his heirs have the right to make a bequest on his behalf, so how about if he wants to make an unjust and unlawful bequest? What you have to do is to divide the estate as commanded by Allah, and give each person his rights.

And Allah knows best.