

Islam Question & Answer

General Supervisor:
Shaykh Muhammad Saalih al-Munajjid

158005 - Is it permissible for them to register what the father owns in one of the sons' names because their father's wife wants to do that for herself?

the question

My father is elderly and can no longer tell what's right and what's wrong. He has a wife who does not care about him, and Allah is witness to what I say. She is trying to get him to register in her name all that he owns and give her authority to buy and sell (on his behalf).

Can we change the ownership to the name of one of my brothers without planning to deprive her of the inheritance if he dies before us?.

Detailed answer

Praise be to Allaah.

There is no guarantee for the rights of your father's wife if you register his property in the name of one of your brothers; in fact there is no guarantee for the rights of the other siblings if the property is registered in the name of only one, as you want to do in this case. It is possible that this brother may take over the entire estate on the basis of this registration that you are asking for. In fact there have been many cases like this. Two wrongs do not make a right.

Just as you have rights with regard to your father's property that you fear for, the wife also has rights with regard to her husband's property that she fears for. Just as you fear that she may take over your father's property, she fears the same thing from you.

The reality is that this solution offers no guarantees to anyone and it cannot be allowed.

But if you really fear the possibility of undue influence for your father and his condition does not let him distinguish between what is right and what is wrong, then the Islamically prescribed way of

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dealing with that is to get a court injunction that will prevent the carrying out of any of his instructions given during the period when he was incapacitated and there was the possibility of tampering or undue influence.

However we are aware that there are far-reaching social difficulties that may stand in the way of this solution, and there may also be legal difficulties in your country, so you can convince your father to divide his property now among all his heirs who are still alive and transfer ownership to them at the time when it is divided.

In this manner each party will be protected against tampering from the others.

And Allah knows best.