269124 - She is asking how she can write her will

the question

I am a married woman, living with my husband only, and I do not have any children. Praise be to Allah in all circumstances. My parents are both deceased, and I have brothers and sisters who are married. My grandfathers and grandmothers are also deceased. I have uncles and aunts on both my father's and mother's sides. I own some gold and silver, and personal belongings such as clothing and books, including the Book of Allah,and my bank account where I receive my monthly pension. I want to write my will, but in a situation such as mine, I do not know how, or who my heirs are. Can I make my husband (may Allah preserve him) the executor of my will? [?????]; in other words, can I write it in his name, and can he open it and read it? Because I want to write some other things in addition to the estate, such as things that I cannot tell him right now, like asking him to think well of me if he discovers or hears something after I die, because he complains about my being very quiet, not talking much, and being mysterious. This is because sometimes I hide from him things that I think it is better to hide in order to avoid troubles or problems with other family members, and Allah knows best about my intention. I hope that I have explained my questions well, and that I will have a clear answer from you.

Detailed answer

Wills are of two types:

An obligatory (waajib) will, which is a will which explains what you owe to people who have no proof of what you owe them, such as debts and items entrusted to you for safekeeping. In this case, having a will is obligatory in order for you to discharge your obligations.

A recommended (mustahabb) will, which has to do with giving donations, such as a person's bequest of one third or less of his wealth to be given after he dies to someone who is not an heir, whether he is a relative or otherwise; or instructions to do some good deeds, such as giving charity to the poor and needy, or other worthy causes. See: Fataawa al-Lajnah ad-Daa'imah (16/264).

A person may leave instructions to his family concerning some matters having to do with his funeral, such as stating who should wash him, who should offer the funeral prayer for him, and so on. He may also leave instructions to them to avoid wailing and other things that are forbidden.

This is indicated by the report narrated by Muslim (121), according to which ‘Amr ibn al-‘Aas (may Allah be pleased with him) said, as he was dying: “If I die, do not let any wailing woman or fire accompany me.”

See also the answers to questions no. 69827 and 10447.

By the same token, a woman may leave instructions asking her husband to think well of her, and apologizing for some of her actions towards him, and asking him to forgive her. There is no specific wording or format for a will concerning this or similar matters. Rather each person may leave instructions as appropriate to his situation and that of his family, stating any debt or obligation that was owed to him or that he owed to others. He may entrust the written will to whomever he wishes, to open it after he dies.

It is not permissible for you to bequeath anything of your estate to your husband, because he has the prescribed right of inheritance to your estate if you die before him. Allah, may He be glorified and exalted, has ordained that the husband’s share of his wife’s estate if she dies is half of her estate, if she did not have any children.

Allah, may He be glorified and exalted, has allocated to each person who is entitled to a share his rightful share, so no bequest can be made to an heir.

As your parents are both deceased, the rest of the estate, after your husband’s share, must be divided among your siblings, with each male getting twice the share of a female.

See the answer to question no. 106236.

No person knows when he will die; how many healthy people have died for no reason, and how many sick people have lived a long time.

What you must do is treat your husband well and live kindly with him, and avoid going to extremes in concealing things and being mysterious, lest that affect the relationship between you and your husband, and undermine the partnership and friendly relations between you, which could to each of you getting used to being withdrawn from the other.

Just as disclosing everything to the husband may lead to conflict and arguments, going to extremes in being mysterious and not talking to one another enough is something that may undermine the relationship between you, as mentioned above, and may even lead to doubt and suspicion.

Adopting a middle path in such matters is something good and praiseworthy.

Our advice to you is not to delay this apology and seeking forgiveness until after you die.

Rather you should do it now, and treat your husband well, and do your utmost to please him, for that is an important means of gaining admittance to Paradise, if Allah wills.

And Allah knows best.