118766 - She died and left behind a husband, five sons and four daughters

the question

The mother died, leaving behind a husband, five sons and four daughters. She owned some money, gold and land. How should the money, gold and land be divided? Is it permissible for us all to agree to give the money in charity as ongoing charity (sadaqah jaariyah) on behalf of our mother? Is it permissible for us males, including the father, to give up our share of the gold so that it will be part of the share of the females?.

Detailed answer

Praise be to Allah.

Firstly:

If a woman dies and leaves behind a husband, five sons and four daughters, then the estate is to be divided as follows:

The husband gets one quarter, because of the words of Allaah (interpretation of the meaning): “In that which your wives leave, your share is a half if they have no child; but if they leave a child, you get a fourth of that which they leave” [al-Nisa’ 4:12].

The children get the rest, with each male getting the share of two females, because Allaah says (interpretation of the meaning): “Allaah commands you as regards your children’s (inheritance): to the male, a portion equal to that of two females” [al-Nisa’ 4:11].

When the estate is shared out among the heirs, it should be divided into 56 equal parts. The husband's share of it is 14 parts, the share of each son is six parts and the share of each daughter is 3 parts.

So the husband's share = the estate × 14 ÷ 56

The share of each daughter = the estate × 3 ÷ 56

The share of each son = the estate × 6 ÷ 56

Secondly:

The heir may donate his share, such as making it a waqf (ongoing charity) on behalf of his mother, so long as he is an adult of sound mind, because if the child or foolish person who does not handle money well donates something, their donation is not valid.

There is nothing wrong with you donating part of the money or all of it to be ongoing charity on behalf of your mother. This is part of respecting her and treating her kindly.

Thirdly:

It is permissible for the male heirs to give up their share of the gold to the female heirs, if they are adults of sound mind as stated above.

If the father gives up his share of the gold to the daughters, this comes under the heading of giving gifts, and the basic principle is that the father should be fair in giving to his children, and he should not favour the females over the males. But if this is done with the consent of the males, there is nothing wrong with it, and in that case they will be doing good and will be rewarded, in sha Allaah.

May Allaah help us all to do that which He loves and which pleases Him.

And Allaah knows best.