21696 - He bequeathed one-third of his wealth to his daughters as a punishment to his son for taking all the money

the question

One year before my father died, he gave to each of us – three daughters and one son – the papers pertaining to the accounts where he had deposited the money he had been saving for us; he had suffered a great deal during the years he was working abroad to save this money for us and provide us with this money. So none of us dared to withdraw any money without referring to him, out of respect for him.

Then my brother withdrew all the money in the account following an argument which arose between my brother and my sister. My father (may Allaah have mercy on him) was on the girls' side, which made my brother (may Allaah forgive him) withdraw all the money which my father had deposited in his account then handed over the documentation. When he (my brother) found out about this will, he started court proceedings to prove the will legally invalid. When his father found out about it from the bank, he was deeply shocked, and he told him to put the money back because he needed it, as he was sick. But my brother refused to return the money, which had a bad effect on my father. My father died angry with my brother, and he had written a will leaving one-third of his money to his daughters; this will was intended as a punishment to my brother which my father wrote before he died, understanding fully what he was saying.

I myself refused to accept this will because I was not comfortable with it, and I insisted on taking only that which was due to me according to sharee'ah. I advised my sisters to ignore this will, in order to correct any mistake that my father may have made and so as to uphold good relations with my brother as Allaah enjoins upon us to do. But my many attempts did not succeed, and they went ahead and executed the will through the courts. The tears of my mother (may Allaah have mercy on her) did not succeed in deterring them from insisting on the will being executed. I also tried several times to deter my brother from entering into a dispute with my sisters in the court, in order to protect the name and reputation of our father. I asked him to consider this as a punishment in this world for what he had done to my father. But he refused to give up what he considered to be his right for any reason, and all of them accused me of not supporting the truth. I

kept myself out of this dispute by appointing a lawyer to declare my objection to this matter from the outset.
I hope that you can advise me of the shar'i ruling and what my siblings' position is according to sharee'ah. Please tell me what my duty towards them is, when they have adopted this stance towards me on this matter despite my many attempts to maintain good relations with them and honour them.
Please advise me, may Allaah reward you.

Detailed answer

Praise be to Allah.

It is unfortunate that there are many such cases among siblings, and what makes the matter even more regrettable is that the reason for this dispute is money. In fact I appreciate our sister's good nature and wisdom, since she has preferred peace to entering into a dispute with her brother, and she has tried to contain the problem and solve it within the family. This in itself should be considered the beginning of a proper solution. As for the answer to this question, it may be answered in the following points:

Firstly:

The money which your father had saved for you and gone to great lengths for your benefit, is the due of everyone whom Allaah has decreed has a share of inheritance. Each of you has a share allotted by sharee'ah after the death of your father; none of you have the right to keep this money for himself and deny it to the rest of the heirs, because by doing so he is transgressing upon the rights of others. Allaah says (interpretation of the meaning):

"but transgress not the limits. Truly, Allaah likes not the transgressors"[al-Baqarah 2:190]

It was narrated by Abu Harrah al-Raqaashi that his paternal uncle said: "I was holding on to the reins of the she-camel of Messenger of Allaah SAWS (peace and blessings of Allaah be upon him), and the Prophet (peace and blessings of Allaah be upon him) said: "A man's wealth is not

permissible except with his consent.” (Narrated by Ahmad, 20172; classed as saheeh al-Albaani in Saheeh al-Irwaa’, 1761).

On this basis, what your brother did by taking this money is considered to be a haraam action, especially since he took the money when your father was still alive and he is not entitled to any of the money until after his father died. Indeed, after his father’s death he is not entitled to anything more than the share which Allaah has allocated to him in the laws of inheritance. So what your brother must do is to repent to Allaah and restore the rights of people.

Secondly:

The will which your father wrote was not acceptable according to sharee’ah, and it is not permissible for you to demand that it be executed, because a person who is designated as an heir according to sharee’ah cannot be given something in the will (wasiyyah). The Prophet (peace and blessings of Allaah be upon him) said: “Allaah has given each person his rights and no will can be made in favour of an heir.” (Narrated by al-Tirmidhi, 2120; classed as saheeh by al-Albaani in Saheeh al-Tirmidhi, 1722), So it is not permissible for you to demand it, even if your brother has taken your money. But you may demand what Allaah has granted you in the laws of inheritance.

Thirdly:

You should continue to advise and guide them and try to bring them together as much as you can. Remember that you will be rewarded by Allaah for that. Allaah says (interpretation of the meaning):

“There is no good in most of their secret talks save (in) him who orders Sadaqah (charity in Allaah’s Cause), or Ma‘roof (Islamic Monotheism and all the good and righteous deeds which Allaah has ordained), or conciliation between mankind; and he who does this, seeking the good Pleasure of Allaah, We shall give him a great reward” [al-Nisa’ 4:114]

Keep telling your sisters not to demand more than they are entitled to, and that demanding one-third is something that is not permitted. Try also to convince your brother, in a good way, to give

your sisters that which is rightfully theirs, and to show mercy to his sisters after his father’s death instead of being a torment to them. You will undoubtedly face problems in doing that, but be patient. We ask Allaah to make you steadfast.

Fourthly:

If you are doing the right thing, it will not matter if people blame you or accuse you of being biased. Be steadfast in adhering to the truth. Finally, we call on all of you to fear Allaah and to ward off this scandalous dispute which does not make anyone happy apart from the Shaytaan, those in whose hearts is a disease and everyone who enjoys the troubles of others or is filled with malicious envy.

I ask Allaah to put things right between you. May Allaah bless our Prophet Muhammad.