301664 - Ruling on putting a car on the market and offering it for sale in the auction, when he does not really want to sell it there; rather he only wants to find out its price

the question

Someone wants to buy a product, a car for example, and he stipulates that the vendor must first put his car on the market and offer it for sale, to find out its market price, then the purchaser can buy it from him for the price determined by the market. What is the ruling on putting the product on the market and offering it for sale in the auction, without actually intending to sell it; rather the aim is to find out its market value? Is it permissible for the purchaser to stipulate such a condition in the sale contract?

Detailed answer

Praise be to Allah.

Firstly:

In order for a transaction to be valid, it is stipulated that the price be known at the time of drawing up the contract, and determining the price depends on the agreement of both parties to the transaction.

But the purchaser may be unaware of prices, so he resorts to this method, which is asking the seller to put it in the auction, in order to determine the highest price that may be offered for it.

What appears to us to be the case is that this method is not Islamically acceptable, because it involves deceiving and cheating the people in the market, because they believe that the seller genuinely wants to sell the item, when in fact he does not want to sell it to them, so he is wasting their time and efforts in examining the item and making bids, pretending that he wants to sell the

item so that they start competing in offer, but they will get nothing in return.

Deceit and cheating are haraam, because the Prophet (blessings and peace of Allah be upon him) said: “Plotting and deceit will be in the Fire.” Narrated by al-Bayhaqi in Shu‘ab al-Eemaan; classed as saheeh by al-Albaani in Saheeh al-Jaami‘. Also narrated by al-Bukhaari in his Saheeh as a mu‘allaq report, as follows: “Deceit will be in the Fire, and whoever does an action that is not in accordance with this matter of ours, it will be rejected.”

And the Prophet (blessings and peace of Allah be upon him) said: “Whoever deceives is not of me.” Narrated by Muslim (102).

Moreover, offering the car for sale in the auction will not give its true price, because of what usually happens in auctions of not offering the appropriate price for items; choosing this method of purchase is unfair.

The correct way is to show the car to one or two experts so that they can evaluate it, even if you have to pay them something in return for that.

According to custom, this is the responsibility of the purchaser, but they [the seller and purchaser] can come to an agreement to share that cost.

The purchaser may join the people in the auction, and if he likes the price, he may add a little to the highest bid, or let someone else buy it for him, if the owner is pleased with the final price.

Secondly:

If the two parties agreed to base the transaction on the highest bid at auction, and the transaction was concluded on that basis before knowing what the final price would be, then this is another reason for disallowing such transactions.

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said: What is meant by the words “or the highest bid” is: I will sell it to you for what is settled upon in the auction. This is not valid, because we do not know whether it will settle on a high price or low price. Someone may make false bids to

artificially inflate the price, so the price will be higher, or perhaps those in attendance will be few, so the price will be lower. Hence it is not valid to sell it on the basis of the highest bid.

And it was said that it is valid, and that selling it on the basis of the highest bid offers more reassurance than selling it after bargaining about the price, because a person may feel assured and say: As people offered this price for it, then this indicates that the value is equivalent to the highest bid. But one may not feel totally sure whether it is valid.

What is more likely to be correct is that it is not valid to base the price on the highest bid, because what the highest bid will be is unknown; if there is artificial inflation of prices the price will be higher, and if those in attendance are few, it will be lower. So in this case there is ambiguity in the transaction, hence it should not be sold on the basis of the highest bid.

End quote from ash-Sharh al-Mumti‘ (8/173).

And Allah knows best.