4089 - Distribution of the estate of the father and his wife who was his business partner

the question

I would like to ask a question on inheritance.
If my father passed away does my mother need to distribute the wealth immediately even if all the children are Ok about her having possession on the wealth until the end of her life.
Also if my mother takes her share which is half (since she was an active partner in my fathers business) and distributes the rest of my fathers wealth according to shareeah, can she gift a part of her share to any of her children. To be more specific, if she favours one child by buying him a house with her share, will that house be distributed amongst all the children after her death. How can one prove that the mother gave the house as a gift and did not leave it behing to be distributed amongst the other children. Can she add this in her will. Must all the other children agree to this agreement and sign it etc...
Please let me know soon.

Detailed answer

Praise be to Allah.

The basic principle concerning the estate of the deceased is that it should be shared out among the heirs after the person has died, and after the funeral expenses and any outstanding debts to Allaah (e.g., zakaah) and other people have been paid, and any specific bequests that may have been made have been dealt with. It is disliked (makrooh) to delay sharing out the estate, because of the harm that this may cause to the heirs, but if all the heirs agree to delay it, there is nothing wrong with this. If your mother was a partner in your father’s business, then she should take her share of the company, then she is entitled to one-eighth of your father’s estate, then with regard to you and your siblings, the males are entitled to the share of two females, if the deceased’s parents are no longer alive. If you and your mother want to leave everything as it is, and let the

business continue operating, there is nothing wrong with this; it is clear what each person's share is, and whenever one of you wants to ask for it, he may take it.

It is not permissible for the mother to give something to one of her children and not the others, because of the hadeeth narrated by al-Nu'maan ibn Basheer (may Allaah be pleased with him), who said: "My father gave me some of his wealth as a gift, and my mother said, 'I will not accept this until you ask the Messenger of Allaah (peace and blessings of Allaah be upon him) to be a witness to this.' So my father went to the Prophet (peace and blessings of Allaah be upon him) to ask him to be a witness to the gift, and the Messenger of Allaah (peace and blessings of Allaah be upon him) said, 'Have you done this for all your children?' He said, 'No.' He said, 'Fear Allaah and treat all your children fairly.' So my father came back and took back the gift." (Agreed upon).

For more detail on this topic and answers to the rest of your question, please see Question #1151. It is not permissible for a mother to bequeath anything to one of her heirs, because the Prophet (peace and blessings of Allaah be upon him) said: "There is no bequest to the heir." (Kashf al-Qinaa', 4/342; Ghaayat al-Muntahaa, 2/335; al-Mughni, 5/604). If she does, her bequest should not be carried out.