138864 - He stipulated that she should look after his father, then he took a second wife and she asked him for separate accommodation and to divide the work with her co-wife

the question

The questioner got married to a woman after explaining to her his father's situation, as his father is sick and needs someone to take care of him. She agreed to that, but now he wants to marry a second wife, but the first wife said: If you take a second wife, then it is my right to ask for separate accommodation and to share the care of your father between us (wives). What is your opinion on that? The questioner is saying: How can she request this when it was stipulated from the beginning that she should take care of his father; in fact he only married her for this purpose and no other?.

Detailed answer

Praise be to Allah.

Allah has enjoined fulfilment of covenants and promises. He says (interpretation of the meaning): “O you who believe! Fulfil (your) obligations” [al-Maa’idah 5:1]. The most important covenant that is to be fulfilled is the marriage contract, whether by the husband or by the wife. It was narrated that ‘Uqbah ibn ‘Aamir (may Allah be pleased with him) said: The Messenger of Allah (blessings and peace of Allah be upon him) said: “The condition which most deserves to be fulfilled is that by means of which intimacy becomes permissible for you.” Narrated by al-Bukhaari (2572) and Muslim (1418).

Based on that, what is required from the wife is to fulfil the condition that her husband stipulated, which is to serve and take care of his father. It seems to us that the wife has no right to ask him to divide this work between her and her co-wife, because that was not stipulated in the marriage contract; furthermore, she knows that Allah has permitted him to marry another woman, and she did not stipulate that he should not take another wife.

As for her request for separate accommodation, she has the right to that unless it was stipulated before marriage that she should take care of his father in his house and that she would not have accommodation separate from his father. In that case, she is obliged to adhere to the two conditions regarding accommodation and taking care of the father, and she does not have the right to ask for separate accommodation or for the work to be divided between her and her co-wife, unless the husband doest hat on his own initiative.

If the wife cannot put up with her new situation, then she has the right to ask for khula' (a type of divorce), in which she will give up her mahr to her husband and he will divorce her (talaaq).

For more details on khula', see the answer to question number 26247.

We advise the husband to be wise in his conduct and to fear Allah with regard to his first wife; she has accepted him as a husband and has agreed to serve his sick father. It is not right to respond to that by bringing in a co-wife who will not share the work with her and will have advantages over her which will cause him distress in his life and cause him trouble.

We are not trying to forbid that which Allah has permitted of plural marriage; but we are aware that part of good attitude on the man's part is responding in kind to the one who has been kind to him in word and in deed. We do not think that the husband's insisting on not making his second wife share the work of caring for his father is a good way of responding to his first wife's good conduct. He should stipulate for the second wife what he stipulated for the first; that is what is fair and wise.

Whatever the case:

We think that this wife should adhere to the conditions of marriage that were stipulated for her, but she has the right to ask for khula' if she fears that she will not be able to fulfil the conditions or fulfil her duties towards her husband. But we think that the husband should do the right thing to get out of this situation, which is stipulating for the second wife what he stipulated for the first of caring for his father. If the marriage contract has been done without that, then he has to deal with her kindly and ask her to serve his father and look after him, working with his first wife.

And Allah knows best.