26184 - A donor has stipulated a haraam condition for a waqf; do we have to fulfil it?

the question

We live at this moment in Europe, but I'm planning to return to my country Morocco as soon as I finish my studies. We own a house there, which actually belongs to my father. My father is very sick lately and is suffering cancer. He feels that his end is near, therefore he wants to do good deeds (sadaqa djariah). Our family always practiced sufism and a part of my family still does. My father believes that he would be doing well by letting people do dhikr in de sufi way at our home in Morocco. He wants me to promise him to keep those people coming there even when he dies.
My question is: How can I convince my dad that those actions are bid'ah?
If he still doesn't agree, can I break my promise and refuse those people into our house?

Detailed answer

Praise be to Allah.

Undoubtedly ongoing charity is one of the righteous good deeds that remain after a person dies, and its reward will continue to reach him whilst he is in the world of the dead. Hence Islam encourages such actions. It was narrated from Abu Hurayrah that the Messenger of Allaah (peace and blessings of Allaah be upon him) said: “When a person dies, all his good deeds come to an end apart from three: ongoing charity, beneficial knowledge and a righteous child who will pray for him.”

Narrated by Muslim, 1631

But unfortunately some people do not choose a kind of charity that is Islamically acceptable and that will bring them reward after death. For example, some people build rabats and zawiyahs in which dhikr is done in a manner that is not in accordance with the teachings of the Prophet (peace and blessings of Allaah be upon him), indeed things may be done there that go against sharee’ah

and contradict Tawheed, such as words that include claims that the awliya' have knowledge of the Unseen and control the universe, or that the Prophets (peace be upon them) are followers of these awliya'.

Shaykh al-Islam Ibn Taymiyah said:

In brief, there is no dispute among the scholars concerning the fact that whoever makes a waqf with provisions for prayer, fasting, reading or jihad in a manner that is not in accordance with sharee'ah, etc., his waqf is not valid, rather he should be told not to do this action or to spend on it.

Majmoo' al-Fataawa, 31/37.

Ibn al-Qayyim said:

A waqf is not valid unless it is done as an act or worship and in obedience to Allaah and His Messenger. A waqf is invalid if it is for a shrine or a grave which is lit with lamps and venerated, at which vows are made, to which pilgrimages are performed and at which someone other than Allaah is worshipped, so that the grave becomes like an idol. This is a matter concerning which not one of the imams of Islam or those who followed their paths differed.

Zaad al-Ma'aad, 3/507

As for how to convince him, that depends on your father's situation and how convinced he is of Sufism and how much he can understand of what is said to him of evidence. We advise the questioner to pay attention to all these factors when speaking with her father, and to be as gentle as possible with him, and to look for a relative who has knowledge of the Sunnah and can convince him not to set up an innovated waqf or leave instructions to that effect in his will.

If she has exhausted all possible means of convincing her father not to set up this innovated waqf in his will, then it is permissible for her to make an outward display of agreeing to his conditions, but she is not obliged to fulfil them – rather she must prevent this bid'ah being established in her house after her father dies, and before he dies if possible, because if someone stipulates a haraam

condition, it is not permissible to fulfil it. The Prophet (peace and blessings of Allaah be upon him) said:

“What is wrong with men who stipulate conditions that are not in the Book of Allaah? Whatever conditions are not in the Book of Allaah are invalid, even if there are one hundred conditions; the decree and conditions of Allaah are more deserving of being fulfilled…”

(Narrated by al-Bukhaari, 2579; Muslim, 1504

And Allaah knows best.