298628 - He claimed that the deceased owed him money, but he has no proof. Are the heirs obliged to pay him anything?

the question

My father-in-law died four years ago; may Allah have mercy on him. He was separated from my mother-in-law for approximately thirteen years, but had not divorced her, and was living in a faraway city. He did not spend on them or help them with expenses after they separated. After he died, and we went to attend his funeral, we found out that some people were asking us to repay loans that the deceased had taken from them, but there was nothing to prove that they had lent him money, such as documents or witnesses. My wife decided to meet the creditors and ask them to let him off for the sake of Allah, or at least to give them time to collect the estate and work out the amounts he owed to others. Her maternal uncle, who is her current guardian (wali) after her father died, came to know of that and he emphatically told her not to do it. He ordered her to collect the estate and go back home, and not to tell anyone about anything, on the grounds that those who were asking for money did not have any proof, and they might be tricksters. My wife insisted on disagreeing with him, but she had no means of doing what she intended to do, after the company lawyers divided the estate among the heirs, each in his name. My question is: How can we prove that the deceased owed debts? Is there any sin or blame on us if we ignore this matter, because we do not know anything about the deceased during these years, and we have nothing to prove that he borrowed money from the (so-called) creditors? The friends of the deceased claim that he lent huge amounts of money to specific people, whom they mentioned by name, which has not yet been repaid, and they told us that the deceased never took money from anyone; rather he used to give loans to people and help them in difficult times etc. We hope that you can help us, and explain the ruling based on the views of the four imams and the majority of scholars, because this matter is giving us sleepless night, because of what could happen to us because of it.

Detailed answer

Praise be to Allah.

If someone claims that a person who has died owed him something, the heirs do not have to do anything unless that is not proven, either by the testimony of two witnesses, or a document written by the deceased, if his handwriting is known, or the document was witnessed.

For ways of proving a debt, please see al-Mawsoo'ah al-Fiqhiyyah (21/120).

Some of the fuqaha' stipulated, in addition to establishing proof of the debt that is owed by the deceased, that the (claimant) should swear an oath before the judge (yameen al-qada').

As-Saawi said in Bulghat as-Saalik (4/232): If someone makes a claim against one who has died that he owes him such and such for a sale or a loan, and his heirs do not accept that, then the judge should not rule in favour of that person who is claiming that debt, unless he swears an oath (yameen al-qada') before the judge, after establishing proof.

If his senior heirs accept it before the claimant refers the matter to the judge, then he does not have to swear an oath.

But if they accept it after the matter is referred to the judge, and they agree without him swearing an oath, then should he be required to swear the oath or not? There are two views among some of the shuyookh. End quote.

But if any of the heirs thinks it most likely that the claimant is telling the truth, then he must give him some of the debt, commensurate with his share of the inheritance. So if he is entitled to half of the estate, for example, he should give him half of the debt.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) was asked: I had a paternal uncle who passed away. Sometime after his death, someone came and said: Your uncle owed me a debt, so give it to me.

I asked him for proof of that debt, in the form of a document or otherwise, and he did not have any proof.

Then I asked him to swear an oath by Allah that my uncle owed him a debt, and he refused to swear, on the grounds that he would never swear an oath concerning anything that was owed to him, therefore in this case there was no reason to swear an oath. What should be done in such a case? Should I give him what he is claiming of debt?

He replied:

with regard to this person who is claiming that your uncle owed him a debt, you do not have to pay him, unless he establishes proof, because if he does not establish proof, then you are not obliged to pay him, because the Prophet (blessings and peace of Allah be upon him) said: “Proof is required of the claimant.” That is because he is the one who is falling short, as he has not proven this matter with any evidence, and you do not have to do anything.

That is the case unless you know that this man is trustworthy, and could not claim anything that he is not entitled to. In that case, the one who trusts what he says must give him part of the debt, commensurate with his share of the estate. As for the one who does not trust what he says, he is not obliged to give him anything. The fact that you asked him to swear an oath, and he did not do so on the grounds that he believes that he is entitled to this payment, means that he is the one who has been negligent concerning his rights, because he does not deserve anything unless he swears an oath.

But as you said before that, if you are certain that this man is telling the truth, and you inherited something of your uncle’s wealth, then pay him a share, or something, from your share of your uncle’s estate.

The same applies to each of the heirs who believes him; they must give him something from their share of the estate.

For example, let us assume that your uncle had a daughter, and that you are the ‘aasib (residuary

heir). In that case, the daughter takes half (of the estate), and you take the remainder, which is the other half.

If the claimant claims that he is owed ten thousand riyals, and you are certain that he is telling the truth, then you must pay him from what you inherited from your uncle, and give him five thousand riyals, because that is commensurate with your share.

Then if the daughter also believes him, she should give him the remainder, but if she does not believe him, she does not have to do anything.

This is the ruling concerning this matter.

End quote from Fataawa Noor ‘ala ad-Darb, on the Shaykh’s website:

http://binothaimeen.net/content/7925

Based on that:

If your wife thinks it most likely that the claimant or claimants are telling the truth, then she must give them something from her share, commensurate with her share of the estate.

So if she received half of the estate, she should give them half of what is owed. If she received one third, for example, she should give them one third of what is owed.

The same is also required of other heirs, if they believe what the claimant is saying.

If the heirs do not think it likely that the claimants are telling the truth, then they do not have to do anything, especially since there is corroborating evidence in the testimony of those who close to him that he used to lend to people and did not borrow from anyone else.

And Allah knows best.