

Non-effect of false condition on implementation of contract

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

Question: A father refuses to marry off his daughter to a qualified man unless on the condition that she pursues her studies at the Faculty of Medical Sciences where they study men and women all together, with a real practice of her job after -while she refuses this-. Is this condition considered valid even with the insistence of her father? Moreover, is it valid to accept it by words and determine by heart to not do it? May Allaah reward you.

Answer: All praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon whom Allaah sent as a mercy to the Worlds, upon his Family, his Companions and his Brothers until the Day of Resurrection.

If the guardian of the woman set as a condition for the one who wants to marry this woman that she carries on studying and that she works despite the fact that this involves the prohibitions that contradict with the values and morals of Islaam, then his condition is null and contradicts the basis of staying at home (concerning women). Indeed, it is not permissible to stipulate this as a prerequisite condition (for marriage), and if he stipulates it, then its presence is like its absence, and the ruling concerning it is the same as the ruling concerning those who set the condition that Al-Walaa' (allegiance) should be for them when 'A'ishah رضي الله عنها bought Bareera [from them], then, the Prophet صلى الله عليه وسلم said to her: "**Buy her and accept their condition [that allegiance is for them]. However, allegiance is for the one who frees the slave.**"¹, i.e. accept their condition and buy her from them, because it is a false condition and has no effect on the contract implementation which entails that allegiance is for the one who frees the slave. Those who ask this condition knew that, when the Prophet صلى الله عليه وسلم said: "**What happened to people asking for conditions which do not exist in Allaah's Book. Who asks a condition which does not exist in Allaah's Book, his condition is not valid even if he asks one hundred conditions.**"²

Therefore, according to the principles and the religious texts: the condition is obligatory except if it contradicts Allaah's Book, in this case, the contract is valid and the condition is not valid.

¹ Reported by Al-Bukhaaree in many chapters of his Saheeh, among them: (456) and (2735). It is also reported by Muslim (2/702) (1504) and by An-Nasaa'ee (3451) -this hadeeth is mentioned according to his version- from the hadeeth of 'A'ishah رضي الله عنها.

² Reported by Al-Bukhaaree (2735) and by Muslim (1504), from the hadeeth of 'A'ishah رضي الله عنها.

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All this, if the man who wants to marry this daughter is appropriate to marry her, i.e. he has good moralities and religious behaviour, and he has a true intention to build a house and able to bear its expenses.

The perfect knowledge belongs to Allaah عزَّ وجلَّ; and our last prayer is all the praises and thanks are to Allaah, the Lord of the Worlds, and prayers of Allaah are to Muhammad and his Family, Companions and Brothers until the Day of Resurrection.

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