

Question 2216) - Does Shari'ah recognise Arsh upon Arsh? What does it entail?

A: A witness can give two forms of Arsh. The first is that by which a ruling can be established in itself. These include sale, hire, marriage, confession, usurpation, murder and a decision of a judge. If he hears or sees these matters he may testify to it if he does not make a secondary witness to it. He will say, "I testify that he sold...?" and will not say, "I have been made witness?"

The second is it does not establish a ruling in itself. This is Arsh upon Arsh. If he merely hears a witness testifying to something he cannot testify to it unless the primary witness makes him a secondary witness to the Arsh. Similarly if someone hears a primary witness making a secondary witness to a Arsh, the hearer cannot testify. Arsh upon Arsh is permissible in every right which does not become forfeit due to doubt. It is not accepted in Hudud and Qisas. The Arsh of two witnesses from two witnesses is acceptable, but not the Arsh of one from one.

~ al-Quduri ~