

Can Heirs Claim their Inheritance Before the death of their Father?

Question: My health has deteriorated and I own a single property, which is all that I have to repay my debts if I pass away. Do my sons have a Right over the property while I am still alive and will I not be depriving them of their right if the property has to be sold for my debts after I die?

Answer: Your wealth is your own and you have the right to do with it as you please. Your children cannot dictate to you what you have to do. However, the Shari'ah does not also allow you to unnecessarily deprive your children of their inheritance by selling all the property off to benefit charity.

Hadhrat Sa'd bin Abi Waqqaas RADI. Says, "During the year in which the farewell Hajj was performed, Rasulullaah SAW. visited me when I fell extremely ill. I then said to him, 'My illness has become extremely severe and I being a wealthy man have none besides my daughter to inherit from me (Since a third will be sufficient for her) May I then donate two thirds of my wealth towards Sadaqah?' 'No,' replied Rasulullaah SAW. May I then donate half?' I asked. When Rasulullaah SAW. again replied in the negative, I asked 'Then how much?' Rasulullaah SAW. replied, 'A third. And a third is also plenty. It is better for you to leave your heirs wealthy than to leave them destitute and stretching their arms out to people. Whenever you spend anything for the pleasure of Allaah. you will be rewarded for it, even for that (morsel of food) which you place in your wife's mouth.'

It is how ever necessary for you to sell as much as you need to sell to pay your debts since your debts take preference. Your children cannot prevent you from doing this. And Allaah knows best what is most correct.

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