

Chapter – 36

Entitlement

(شفعة / حق)

Quran:

وَبِالْوَالِدَيْنِ إِحْسَانًا وَبِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينِ وَالْجَارِ ذِي الْقُرْبَىٰ وَالْجَارِ الْجُنُبِ
وَالصَّاحِبِ بِالْجَنبِ

{And be good to parents, and to relatives, and orphans, and the needy and the related neighbor and the unrelated neighbor. (04:36)}

Hadith:

Narrates Jabir bin 'Abdullah:

Allah's Prophet gave a verdict regarding Shuf'ah (entitlement) in every joint property and is undivided. But if the limits are defined (or demarcated) or the ways and streets are fixed, then there is no pre-emption. (Sahih Bukhari: 2115)

Narrates 'Amr bin Ash-Sharid:

Abu Rafi', the freed slave of the Noble Prophet, told Sad Abi Waqas to buy from him the two dwellings adjacent to his house. Sad said, "I will not buy them." His colleague Al-Miswar insisted for this deal so he offered four hundred Dirhams and said I will not give more. Abu Rafi' said, "I have been offered five hundred Dirhams for it, but it is the Prophet saying that, 'The neighbor has more right than anyone else because of his nearness'". I would therefore sell you these two houses in 400 dirhams only. (Sahih Bukhari: 2116)

Narrates Aisha:

I said, "O Allah's Prophet! I have two neighbors and would like to know to which of them I should give presents." He replied, "To the one whose door is nearer to you." (Sahih Bukhari: 2117)

Narrates Abu Musa Al-Ash'ari:

I went to the Prophet with two men from Ash'ari tribe. I said to the Prophet, "These two persons demand for some employment." The Prophet said, "No, we do not appoint for our jobs anybody who demands it earnestly." (Sahih Bukhari: 2118)

Important Aspects of Islamic Doctrine

- The fiqh scholars consider Shuf'ah to that entitlement that a neighbor has. If anybody wants to sell his house, land or any other property, the first right to purchase them goes to the neighbors. However it may be sold to others if none from the neighbors are interested to buy them. Some scholars say that the right of Shuf'ah is preferable but it is not compulsory. On the other hand some scholars say that the right of Shuf'ah is compulsory and the neighbors have their rights in preference.
- In any deal, the person who expresses his right is technically called as شفيع (the claimer), and when one achieves this right successfully then it is called شفعه (the entitled). This type of right is confined to the neighbor only; otherwise the deal is open for all.
- The noble Prophet said that “The person whose boundary of a house or a garden is attached with his immediate neighbor, he should not sell his property without consulting him”.
- The person who has the right of purchase, his entitlement (شفعه) is a proven thing as the hadith quoted above supports it. Therefore, without informing the neighbor any sale deed is not correct.

Note:

In connection with the Human Rights, Islam has specifically drawn attention of Muslims with serious notes for the good relations with the neighbors. For instance the following hadith says:

Sahih Bukhari: Hadiths 5617 and 5618:

Allah' Prophet said, Gabriel kept on recommending me about treating the neighbours in a kind and polite manner, so much so that I thought that he would order me to make them as heirs. Narrates: Aisha and Ibn Umar

