

The Possession Of The Agent Being The Possession Of The Client

Darulifta Ahlesunnat

(Dawateislami)

Question

What do the scholars of Islam say regarding the following: after purchasing goods, the buyer asks the seller to arrange for the goods to be loaded onto a vehicle on his behalf. The buyer also expresses that it is his responsibility to pay for the vehicle. When the driver acquires the goods, will this be regarded as the buyer taking possession?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

If the seller arranges for the goods to be loaded onto a vehicle upon the request of the buyer, the driver taking possession of the buyer's goods is considered like the buyer taking possession of them.

The driver is taking hold of the goods as a representative of the buyer. The possession of an agent is considered the possession of the buyer. The reason why this applies here is because the driver is considered the buyer's employee, as he will seek payment from the buyer.

In *al-Fatāwā al-Bazzāziyyah*, *al-Fatāwā al-Tātārkhāniyyah*, *Fatāwā 'Ālamgīrī*, and *al-Fatāwā al-Hindiyyah*¹:

إذا قال المشتري للبائع ابعث الى ابني، واستاجر البائع رجلا يحمله الى ابنه، فهذا ليس بقبض والاجر على البائع الا ان يقول: استاجر علي من يحمله، فقبض

الاجر يكون قبض المشتري إن صدقه أنه استأجر ودفع إليه

Correlating this discussion back to the question posed at the beginning, the employee, i.e., the driver, is the representative of the buyer. Whatever the representative takes possession of is considered as the client taking possession of it. It is stated in *al-Mabsūṭ li al-Sarakhsī*²:

الوكيل في حق الموكل كقبضه بنفسه

It is written in *Radd al-Muḥtār*³:

لأن قبض الوكيل كقبضه

In *Bahār-i-Sharī'at* it is mentioned:

The possession of the representative is the possession of the client.⁴

وَاللَّهُ أَعْلَمُ عَزَّوَجَلَّ وَرَسُولُهُ أَعْلَمُ صَلَّى اللَّهُ تَعَالَى عَلَيْهِ وَآلِهِ وَسَلَّمَ

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¹ *Al-Fatāwā al-Hindiyyah*, vol. 3, p. 19, Peshawar.

² *Al-Mabsūṭ li al-Sarakhsī*, vol. 19, p. 176, published in Quetta

³ *Radd al-Muḥtār*, vol. 6, p. 13, Beirut

⁴ *Bahār-i-Sharī'at*, vol. 3, p. 180, Maktabat al-Madina, Karachi

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