

## Entering Mudarabah Contract with Money and a Shop

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What do the Islamic scholars and jurists say regarding the following issue? A person proposes a business arrangement where he will provide both the shop and the money, and the other party will work in the shop selling groceries. The shop owner will not take any compensation for providing the shop. The purpose of giving the shop is to save on capital. As far profit is concerned, it will be divided into three parts: two-thirds for the working party and one-third for the owner of the money and shop.

Is it permissible to conduct business in this manner? Is it permissible for the working partner to receive investment in the form of money and a shop and take a larger share of profit?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الجواب بعون الملك الوهاب اللهم هداية الحق والصواب

A business arrangement where one party provides the money (investment) and the other provides only labor (without investment) is termed a "Mudarabah contract" in Islamic jurisprudence.

According to Shari'ah rules, conducting business as described, with profit divided into one-third and two-thirds, is permissible. Providing the shop free of charge does not affect the validity of the agreement.

It is stated in Durr-ul-Mukhtar:

”شرعا (عقد شركة في الربح بمال من جانب) رب المال (وعمل من جانب) المضارب“

Translation: According to Shariah, Mudarabah is a contract, where capital is provided by one party and labor by the other, and the

profit is shared between them.

(Durr-ul-Mukhtar, Vol. 5, p. 645, Dar-ul-Fikr, Beirut)

It is mentioned in the conditions of Mudarabah in Durr-ul-Mukhtar:

"(كون الربح بينهما شائعا) فلو عين قدر افسدت"

Translation: The profit must be shared between them (proportionally). If a fixed amount is specified, the Mudarabah becomes invalid."

(Durr-l-Mukhtar, Vol. 5, p. 648, Dar-ul-Fikr, Beirut)

The profit-sharing arrangement of two-thirds and one-third, as outlined in the agreement, is valid. It is mentioned in Bahar-e-Shariat:

"نفع دونوں کے مابین شائع ہو یعنی مثلاً نصف نصف یا دو تہائی ایک تہائی یا تین چوتھائی ایک چوتھائی، نفع میں اس طرح حصہ معین نہ کیا جائے جس میں شرکت قطع ہو جانے کا احتمال ہو مثلاً یہ کہہ دیا کہ میں سو 100 روپیہ نفع لوں گا۔ اس میں ہو سکتا ہے کہ کل نفع سو ہی ہو یا اس سے بھی کم تو دوسرے کی نفع میں کیوں کر شرکت ہو گی یا کہہ دیا کہ نصف نفع لوں گا اور اس کے ساتھ دس 10 روپیہ اور لوں گا، اس میں بھی ہو سکتا ہے کہ کل نفع دس 10 ہی روپے ہو تو دوسرا شخص کیا پائے گا۔"

Translation: The profit must be shared proportionally, such as half-half, two-thirds to one-third, or three-fourths to one-fourth. The profit should not be fixed in a way that eliminates profit sharing, e.g., if one says, 'I will take 100 rupees of the profit.' It is possible that the total profit might be just 100 or even less than that. So, in this case, how will the other have his share in profit? Similarly, if one says, 'I will take half the profit plus 10 rupees,' and the total profit is just 10. So, in this case, what will the other party receive from the profit?

(Bahar-e-Shariat, Vol. 3, p. 2, Maktaba-tul-Madina, Karachi)

Vesting someone with the ownership of the benefit of one's property without compensation is termed Ariyah (loaning for use). It is stated in Bahar-e-Shariat:

"دوسرے شخص کو چیز کی منفعت کا بغیر عوض مالک کر دینا عاریت ہے۔"

Translation: Giving another person the benefit of something without compensation is called Ariyah."

(Bahar-e-Shariat, Vol. 3, p. 54, Maktaba-tul-Madina, Karachi)

On another place, it is mentioned in Bahar-e-Shariat:

مالک نے اپنے غلام اور اپنے جانور مضارب کو بطور اعانت سفر میں لے جانے کے لیے دے دیے اس سے مضاربت فاسد نہیں ہوگی اور غلاموں اور جانوروں کے مصارف مضارب کے ذمہ ہیں مضاربت سے ان کے اخراجات نہیں دیے جائیں گے اور مضارب نے مال مضاربت سے ان پر صرف کیا تو ضامن ہے مضارب کو نفع میں سے جو حصہ ملے گا اُس میں سے یہ مصارف منہا ہوں گے اور کمی پڑے گی تو اُس سے لی جائے گی اور مصارف سے کچھ بچ رہا تو اُسے دے دیا جائے گا ہاں اگر رب المال نے کہہ دیا کہ میرے مال سے ان پر صرف کیا جائے تو مصارف اُسی کے مال سے محسوب ہوں گے۔

Translation: If an owner allows his slaves or animals to accompany the Mudarib (working partner) for assistance during travel, the Mudarabah contract will not become invalid just because of this. The expenses of the slaves and animals will be the responsibility of the Mudarib, and these costs cannot be deducted from the Mudarabah funds. If the Mudarib spends from the Mudarabah capital/income on them, he is liable for it. The expenses will be deducted from the Mudarib's share of the profit. If there is a shortfall, it will be recovered from the Mudarib and only that amount will be given to him which remains after covering these expenses. However, if the capital provider allows spending from his capital, the expenses will be covered from his capital."

(Bahar-e-Shariat, Vol. 3, p. 23, Maktaba-tul-Madina, Karachi)

واللہ اعلم عزوجل ورسوله اعلم صلى الله تعالى عليه وآله وسلم

Written by

Abu Muhammad Mufti Ali Asghar Attari Madani

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Translated by Maulana Abdul wajid madani