

Ruling on Selling a Formula Written on Paper

Ref: IEC.0049

Date: 18-08-2023

Question

What do the Islamic scholars say regarding the following matter: I own a hair oil factory. If someone wishes to buy the formula for making hair oil from me, is it permissible in Islamic law for me to sell it? This sale will involve paper i.e. there will be a paper and I will write the formula on it.

Answer

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
الجواب بعون الملك الوهاب اللهم هداية الحق والصواب

From Shariah perspective, it is permissible to sell the oil making formula as described in the question.

Detailed answer:

Islamic law stipulates that for any trade, the item being sold must be both Maal (مال) and a valuable (المتقوم) item. For something to qualify as Maal, it is sufficient that people have an inclination towards it, they store it and have a desire to give and take it. For an item to be a valuable (المتقوم)) means that Shari'ah allows deriving

benefit from it. In our times, paper is considered a valuable item, and people, in various ways, derive various benefits from it.

In the asked scenario, the paper being sold fulfills the definition of Maal. And other than that, the formula written on the paper also adds to its value. Hence it is permissible to buy and sell such paper.

The item being sold must be both Maal and a valuable. Allama Shami (رحمه الله تعالى) states under the conditions of sale:

“كونه موجودا مالا متقوما”

Translation: It is from the condition of a sale that the subject of the sale must exist and must be from the category of Maal and that too a valuable.

(Radd-ul-Muhtar, Vol. 4, p. 505, Dar al-Fikr, Beirut)

He further explains:

“والمال ما من شأنه أن يدخر للانتفاع وقت الحاجة”

Translation: Maal is that which people tend to save to benefit from in times of need.

(Radd-ul-Muhtar, Vol. 4, p. 502, Dar al-Fikr, Beirut)

Allama Shami رحمه الله عليه also writes about the meaning of a valuable (المتقوم):

“المتقوم هو المال المباح الانتفاع به شرعا”

Translation: Mutaqawwim is a Maal from which deriving benefit is permissible in Shari'ah.

(Radd-ul -Muhtar, Vol. 5, p. 50, Dar al-Fikr, Beirut)

Imam-e-Ahle-e-Sunnat, Imam Ahmad Raza Khan (رحمة الله عليه), writes about the status of paper as Maal-e-Mutaqawwim in Kifl-ul-Faqih al-Fahim:

”الكاغذ مال متقوم ومازادته هذه السكة الارغبة للناس اليه وزيادة في صلوح ادخاره للحاجات وهذا معنى المال --- ومعلوم ان الشرع لم يرد بحجر المسلم عن التصرف في قطعة قرطاس كيفما كانت كما ورد به في الخمر والخنزير وهذا هو مناط التقوم.“

Translation: Paper is a valuable wealth (المال المتقوم), and its particular form as currency has only increased people's inclination toward it, because it is increasingly suitable for saving for future needs. This is exactly the meaning of Maal (wealth). It is a well-known fact that Shari'ah has not mentioned any prohibition for Muslims from deriving a permissible benefit from paper in any manner, unlike wine and swine (where prohibition is mentioned). And this is exactly the meaning of Taqawwum i.e. Shari'ah does not prohibit deriving lawful benefit from something.

(Kifl-ul-Faqihil-Fahim, p. 3, Published by Maktaba-tul-Madina, Karachi)

Let alone selling a paper with a formula written on it that makes it valuable, even selling a simple and plain

paper is permissible. See what Allamah Ibn-e-Hummam has stated about selling a plain paper:

”باع کاغذہ بألف یجوز ولا یکرہ“

Translation: Selling a piece of paper for a thousand (Rupees or any currency unit) is permissible without any Karahah (بلاکراہة).

(Fath-ul-Qadir Sharh al-Hidayah, Vol. 7, p. 212, Dar al-Fikr, Beirut)

Sadr ul-Shariah Mufti Amjad Ali Aazmi (رحمة الله عليه) states in Bahar-e-Shariat:

”مال وہ چیز ہے جس کی طرف طبیعت کا میلان ہو، جس کو دیا لیا جاتا ہو، جس سے دوسروں کو روکتے ہوں، جسے وقت ضرورت کے لیے جمع رکھتے ہوں“

Translation: Maal is that which people are naturally inclined toward, which is exchanged and withheld from others, and saved for future needs.

(Bahar-e-Shariat, Vol. 2, p. 696, Published by Maktaba-tul-Madina, Karachi)

والله اعلم عز وجل ورسوله اعلم صلى الله تعالى عليه وآله وسلم

Written by

Abu Muhammad Mufti Ali Asghar Attari Madani

30th Muharram 1445 AH / 18th August 2023

Translated by Maulana Abdul Wajid Madani