

## How To End A Loan Dispute When There Are No Witnesses To Repayment?

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What do the religious scholars and muftis say about the following issue? Zaid gave me a loan, and after some time, I returned the amount. However, Zaid claims that I have not returned the money. Neither of us has witnesses. In such a situation, what guidance does Shariah provide?

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

In the situation presented, it is obligatory upon you to provide witnesses for the repayment of the loan. If you present witnesses, you will be absolved from the responsibility of the loan repayment. If there are no witnesses, Zaid will be asked to take an oath that he has not received the repayment. If Zaid takes the oath, you will be required to repay the loan. However, if Zaid refuses to take the oath, then it will not be obligatory upon you to make the repayment according to Shariah.

It is mentioned in Durr al-Hukkam fi Sharh Majallat al-Ahkam:

”إذا ادعى أحد كذا درهما من جهة القرض ودفع المدعى عليه الدعوى قائلاً: إنني أديت لك ذلك فيسأل حينئذ المدعي هل إن المدعى عليه أدى لك المبلغ المذكور. والمدعي إما أن يقر بالاستيفاء أو ينكر فإذا أنكر وأثبت المدعى عليه أدائه ذلك المبلغ يحكم القاضي بمنع المدعي من دعواه وإذا عجز عن إقامة البينة فللمدعى عليه أن يحلف

المدعي على عدم قبضه المبلغ المذكور من المدعى عليه-- وإذ انكل المدعي عن حلف  
اليمين يثبت دفع المدعى عليه-

Translation: When one party claims an amount of money as a loan, and the other party (the debtor) denies this, claiming to have already repaid it, the claimant will be asked whether the defendant (debtor) has repaid the specified amount. The claimant may either acknowledge the receipt of the payment or deny it. If the claimant denies it, and the defendant can prove through witnesses that the payment was made, the judge will reject the claimant's case. If the defendant is unable to provide witnesses, it is permissible for him to ask the claimant to take an oath affirming that the payment was not received. If the claimant refuses to take the oath, the repayment will be considered repaid.

(Durarul-Hukkam fi Sharhi Majallatil-Ahkam,  
Volume 4, Page 196, Dar al-Kutub al-Ilmiyyah)

It is also mentioned in Alamgiri:

”لو ادعى المديون أنه بعث كذا من الدراهم إليه-- صحت الدعوى ويحلف“

Translation: If the debtor claims that he has sent the specified amount to the creditor, this claim will be considered, and the creditor will be required to take an oath.

(Al-Fatawa al-Hindiyyah, Volume 4, Page 5,  
Published by Dar al-Fikr, Beirut)

In Bahar-e-Shariat, Mufti Muhammad Amjad Ali A'zami

(رحمة الله عليه) writes:

”دائن نے دین کا دعویٰ کیا مدیون کہتا ہے کہ میں نے اتنے روپے تمہارے پاس بھیج دیے تھے یا فلاں شخص نے بغیر میرے کہنے کے دین ادا کر دیا مدیون کی یہ بات مسموع ہوگی اور دائن پر حلف دیا جائیگا۔“

Translation: If the creditor claims the debt, and the debtor states that he has already sent the specified amount or that someone else paid the debt without his permission, this statement from the debtor will be considered, and the creditor will be required to take an oath.

(Bahar-e-Shariat, Volume 2, Page 1024,  
Maktaba-tul-Madina, Karachi)

واللہ اعلم عزوجل ورسولہ اعلم صلی اللہ تعالیٰ علیہ وآلہ وسلم

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