

Fatwa no. 4384

**Q: My son married a second wife. After that he wrote the attached letter to the judge of Marriage Court on 27 Sah`ban, 1401 A.H. and got a date to announce divorce in Dhul Al-Qa`dah. After he knew the date, he took his first wife and children and traveled to Khamis Mishit, the residence of his first wife's brothers. After he returned, he died in a car accident and we found a paper including the date of announcing the divorce in his pocket. We went to the Marriage Court and told the officials that he had died. They handed us the attached letter and told us to go to the Mufty (Islamic scholar qualified to issue legal opinions) and ask him whether this divorce has taken place or not. Please advise.**

**A:** The basic rule is that his second wife is not divorced and she is still his wife and is entitled to inherit from the property he left behind. Whoever claims that the husband divorced her should bring forth the evidence for this claim before the religious judge. With regard to the letter he submitted to His Eminence, the judge of Marriage Court, which reads, "I hereby submit this letter to Your Eminence to divorce my wife," it is not enough to confirm divorce. It is not clear evidence of divorce. It might only be a promise of divorce or he might only wish to divorce her and so he made an appointment with the judge of the Marriage Court to announce the divorce and register it, but it is still a possibility and hence it does not entail any legal action. The basic rule is that marriage is existent so long as divorce is not confirmed.

May Allah grant us success. May peace and blessings be upon our Prophet Muhammad, his family, and Companions.

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