b. Mahr

DOCUMENT EIGHTEEN

PROMPT MAHR GIVEN TO A BRIDE’S MOTHER IN TRUST (1934)

Introduction

In the case under review, a Bedouin of al-Sawāḥira married a girl from the Qaḍā‘ of al-Salṭ. The bride’s mother received in trust (amāna) the goats given on account of the payment of the prompt mahr on behalf of her daughter; the depository undertook to return the goats to her daughter on request or when necessary. No explanation for this arrangement between the bride and her mother is provided in the document.

The case is dealt with in purely sharī‘ī terms. Thus it is mentioned that the depository was of sound mind (āqila) and in possession of all the required sharī‘ī and statutory qualities, that she had some goats in trust (amāna) on her daughter’s behalf and that this livestock was her daughter’s private property and part of her prompt mahr. The document demonstrates the woman’s capacity to own and dispose of property in accordance with the sharī‘a. Although it seems safe to assume that the mother was entitled to benefit from the goats in her keeping, the document does not refer to the question as to the depository’s liability toward her daughter in case of loss.
Text

On the date stated below.

There appeared [at the present meeting] the woman of sound mind (āqila), Fāṭima bint Yūsuf Salmān, of the Qaḍāʾ al-Salt, which belongs to East Jordan [Transjordan], and, while in possession of all the [required] sharʿī and statutory (qānūnī) qualities (ṣifāt), she affirmed (aqarrat), acknowledged (iʿtarafat) and attested that she had twenty-eight milch goats in trust (amāna) on behalf of her daughter Thurayyā bint ʿUlayyān al-Sālih al-Salt, being the said Thurayyā’s private property (milk . . . min mālihā al-khās) as well as [part of] her prompt mahr—entrusted as deposit (mawdūʿāt) to her mother Fāṭima bint Yūsuf Salmān until her daughter, the said Thurayyā claimed it. [Now,] the said Fāṭima undertakes (taʿahhadat) to deliver (an tusallima) the twenty-eight goats to her daughter on request or when this should prove necessary.

In witness whereof (lil-bayān) this document (hujjā) has been drawn up in the presence of eyewitnesses (shuhūd al-hāl); Allāh is the best of witnesses (khayr al-shāhidīn).

9th Tishrīn Awwal [October], 1934. [Revenue stamp of Palestine]

Mark [fingerprints] (baṣma) of the thumb (ibḥām) of Fāṭima bint Yūsuf Salmān of al-Salt

Witnesses [signatures and rubber-stamps]: Ibrāhīm Ḥusayn Jaʿfar, Mukhtār of ʿArab al-Sawāhira and al-Jaʿāfira, Ḥamdān Mūsā, Muḥammad

Testified to it: Muḥammad Ḥasan Mūsā

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1 The reference seems to be to the Mejelle.
2 This is a clear indication of a woman’s capacity to own and dispose of property. However, this case reflects the position of a woman from al-Salt, not necessarily of Bedouin origin.
3 From another document it becomes evident that Thurayyā was married to a Bedouin of ʿAshīrat al-Sawāhira and that the latter owed her the sum of forty Palestine pounds, her mahr; see doc. 19. The sum of forty pounds seems to refer to the prompt mahr mentioned in this document.
4 See Glossary, s.v. wadāʿa.
5 This seems to be a case of trust (amāna) that does not entail liability in the event of accidental loss. See Mejelle, art. 768. It stands to reason that the depository, the mother, was entitled to benefit from the produce of the goats, such as consuming their milk and wool, and that such a benefit would not be considered as wrong (taʿaddin) under customary law; see Glossary, s.v. amāna, amānih.
6 It is not clear why the bride decided to deposit her property with her mother. Many explanations can be offered, such as a governmental administrative prohibition to transfer livestock from the East Bank to the West Bank, and a precaution on the part of the young bride against any attempt of her husband to lay his hands on her property far away from the protection of her agnates.