

Musaqat

Issue No. 1- If a person leaves his trees with someone for a specified period of time, so that he cares, tends and waters them, and in return, that person will take an agreed quantity of fruits, this transaction is called Musaqaat.

Issue No. 2- While concluding a transaction of Musaqaat, the prescribed formula can be recited in any language, or without reciting the formula, if the owner of trees hands over them, with the intention of Musaqaat, to the person who has agreed to take care of them, and he also receives them with the same intention, the transaction will be in order. (Of course, the necessary talks about the duration and the conditions, etc. should have taken place earlier).

Issue No. 3- There are some conditions for Musaqaat:

1- The owner of the trees and the person who undertakes to tend and care for them, should be Baligh and sane.

2- No one should have compelled them to do so.

3- They should not have been banned from having discretion over their own property.

4- The period of Musaqaat should be specified, and if the beginning of it is specified, and its end is fixed to be the time when fruits for that year become available, the contract is in order.

5- It is necessary that the share of each one of them is fixed as 1/2 or 1/3 etc. of the crop.

6- It is necessary that the contract of Musaqat be concluded before the appearance of the crop. And if the contract is made after the appearance of the fruits and before they are ripe, the contract will be in order, provided that some work like, watering and spraying which are required for increasing the crop and protecting the trees, still remain to be done. And if the work required to be done is merely plucking the fruits and looking after them, the contract is in order but it is not Musaqat.

Issue No. 4- If a clear agreement, in respect of melon, cucumber vines etc., in which the number of times of picking and the share of each one are specified, is made.

Issue No. 5- Trees that need not be irrigated and benefit from rainwater or the moisture of the earth, but need other work to be done for them, like turning up with a spade, fertilizing and spraying which will make their fruits or their quality to be increased, it will be in order.

Issue No. 6- The parties involved can cancel the transaction of Musaqat with mutual consent, and also if, when concluding the contract, they had agreed that one or both of them would have the right to cancel it, then, he can do so according to the agreement. And if in the contract of Musaqat, they had laid a condition and that condition is not fulfilled, and if the person who benefits from the condition is not able to compel the other party to fulfill it, then, he can cancel the transaction.

Issue No. 7- The Musaqat transaction will not terminate with the death of the owner of the orchard, and his heirs will act on his behalf. However, if the person who has undertaken to look after the trees, dies and if they had agreed that he himself would do the job, the contract will become cancelled, but if they have not laid such a condition, his heirs will take his place.

Issue No. 8- The work to be done by each of the parties involved should be specified in advance, like, repairing the subterranean canals, or the water well engine, also the supply of the manure, spray equipments, etc., and if there is a local practice and rule in this respect, that will suffice.

Issue No. 9- It is possible that the other party in Musaqat be more than one, that is, the owner of the trees may leave them in the hands of several people, and conclude the contract of Musaqat with them.
