

**48 - THE BOOK OF MORTGAGING
IN PLACES OCCUPIED BY SETTLED
POPULATION (TOWNS, CITIES, ETC.)**

(1) CHAPTER. The mortgaging in places occupied by settled population and the Statement of Allāh تعالى :

“And if you are on a journey and cannot find a scribe, then let there be a pledge taken (i.e., mortgaging)...” (V.2:283)

2508. Narrated Anas رضي الله عنه : No doubt, the Prophet ﷺ mortgaged his armour for barley grains. Once, I took barley bread with some dissolved fat on it to the Prophet ﷺ and I heard him saying, “The household of Muḥammad (ﷺ) did not possess except a *Sā'* (of food grain, barley, etc.) for both the morning and the evening meals, although they were nine houses.”

(2) CHAPTER. Mortgaging an armour.

2509. Narrated 'A'ishah رضي الله عنها : The Prophet ﷺ bought some foodstuff on credit for a limited period and mortgaged his armour for it.

(3) CHAPTER. Mortgaging the arms.

2510. Narrated Jābir bin 'Abdullāh رضي الله عنه : Allāh's Messenger ﷺ said, “Who would kill Ka'b bin Al-Ashraf as he has

٤٨ - كتاب الرهن

(١) **بَابُ فِي الرَّهْنِ فِي الْحَضَرِ**
وَقَوْلِ اللَّهِ عَزَّ وَجَلَّ: ﴿وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهَنَّ مَقْبُوضَةً﴾
[البقرة: ٢٨٣]

٢٥٠٨ - حَدَّثَنَا مُسْلِمٌ بْنُ
إِبْرَاهِيمَ: حَدَّثَنَا هِشَامٌ، حَدَّثَنَا قَتَادَةُ،
عَنْ أَنَسِ رَضِيَ اللَّهُ عَنْهُ قَالَ: وَلَقَدْ
رَهَنَ رَسُولُ اللَّهِ ﷺ ذِرْعَهُ بِشَعِيرِ
وَمَسَّنْتُ إِلَى النَّبِيِّ ﷺ بِخُبْزِ شَعِيرِ
وَإِهَالَةٍ سَنِيخَةٍ، وَلَقَدْ سَمِعْتُهُ يَقُولُ:
«مَا أَصْحَحَ لَالٍ مُحَمَّدٍ ﷺ إِلَّا صَاعٌ
وَلَا أَمْسَى، وَإِنَّهُمْ لَيَسْعَعُهُ أَيْبَاتٍ».
[راجع: ٢٠٦٩]

(٢) **بَابُ مَن رَهَنَ ذِرْعَهُ**

٢٥٠٩ - حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا عَبْدُ
الْوَاحِدِ: حَدَّثَنَا الْأَعْمَشُ قَالَ:
تَدَاكَرْنَا عِنْدَ إِبْرَاهِيمَ الرَّهْنِ وَالْقَيْلِ
فِي السَّلَفِ، فَقَالَ إِبْرَاهِيمُ: حَدَّثَنَا
الْأَسْوَدُ عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا:
أَنَّ النَّبِيَّ ﷺ اشْتَرَى مِنْ يَهُودِيٍّ
طَعَامًا إِلَى أَجَلٍ وَرَهَنَهُ ذِرْعَهُ.
[راجع: ٢٠٦٨]

(٣) **بَابُ رَهْنِ السَّلَاحِ**

٢٥١٠ - حَدَّثَنَا عَلِيُّ بْنُ عَبْدِ
اللَّهِ: حَدَّثَنَا سُفْيَانُ: قَالَ عَمْرُو:

harmed Allāh and His Messenger ﷺ?" Muḥammad bin Maslama (got up and) said, "I will kill him." So, Muḥammad bin Maslama went to Ka'b and said, "I want a loan of one or two *Wasq* of foodgrains." Ka'b said, "Mortgage your women to me." Muḥammad bin Maslama said, "How can we mortgage our women, and you are the most handsome among the Arabs?" He said, "Then mortgage your sons to me." Muḥammad said, "How can we mortgage our sons, as the people will abuse them for being mortgaged for one or two *Wasq* of foodgrains? It is shameful for us. But we will mortgage our arms to you." So, Muḥammad bin Maslama promised him that he would come to him next time. They (Muḥammad bin Maslama and his companions) came to him as promised and murdered him. Then they went to the Prophet ﷺ and told him about it.

سَمِعْتُ جَابِرَ ابْنَ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُمَا يَقُولُ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ لِكَعْبِ بْنِ الْأَشْرَفِ؟ فَإِنَّهُ آدَى اللَّهَ وَرَسُولَهُ ﷺ». فَقَالَ مُحَمَّدُ بْنُ مَسْلَمَةَ: أَنَا، فَاتَاهُ فَقَالَ: أَرَدْنَا أَنْ تُسَلِّفَنَا وَسَقَا أَوْ وَسَقَيْنَ، فَقَالَ: ارْزُهْنُونِي نِسَاءَكُمْ. قَالُوا: كَيْفَ نَرْزُهْنُكَ نِسَاءَنَا وَأَنْتَ أَجْمَلُ الْعَرَبِ؟ قَالَ: فَارْزُهْنُونِي أَبْنَاءَكُمْ، قَالُوا: كَيْفَ نَرْزُهْنُكَ أَبْنَاءَنَا فَيَسِبُّ أَحَدُهُمْ فَيُقَالُ: رُزِهْنُ يَوْسِقِي أَوْ وَسَقَيْنَ؟ هَذَا عَارٌ عَلَيْنَا، وَلَكِنَّا نَرْزُهْنُكَ اللَّأَمَةَ - قَالَ سُفْيَانُ: يَعْنِي السَّلَاحَ - فَوَعَدَهُ أَنْ يَأْتِيَهُ فَفَقَتَلُوهُ ثُمَّ أَتَوْا النَّبِيَّ ﷺ فَأَخْبَرُوهُ. [انظر: ٣٠٣١، ٣٠٣٢،

[٤٠٣٧

(4) CHAPTER. It is permissible to mortgage an animal used for riding or milking.

Mughira narrated that Ibrāhīm said: One can ride and milk the lost animal in proportion to the amount of food one gives to it; this is valid also for mortgaged animals.

2511. Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ: The Prophet ﷺ said, "One can ride the mortgaged animal because of what one spends on it, and one can drink the milk of a milch animal as long as it is mortgaged."

(٤) بَابُ الرَّهْنِ مَرْكُوبٍ وَمَحْلُوبٍ

وقال مغيرة عن إبراهيم: تركب الضالة بقدر علفها، وتحلب بقدر علفها، والرهن مثله.

٢٥١١ - حَدَّثَنَا أَبُو نُعَيْمٍ: حَدَّثَنَا زَكَرِيَّا، عَنْ عَامِرٍ، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ ﷺ أَنَّهُ كَانَ يَقُولُ: «الرَّهْنُ يُرْكَبُ بِتَفْتِهِ، وَيُسْرَبُ لَبْسُ الدَّرِّ إِذَا كَانَ مَرْهُونًا».

[انظر: ٢٥١٢]

2512. Narrated Abū Hurairah رَضِيَ اللَّهُ عَنْهُ: Allāh's Messenger ﷺ said, "The mortgaged animal can be used for riding as long as it is

٢٥١٢ - حَدَّثَنَا مُحَمَّدُ بْنُ مُقَاتِلٍ: أَخْبَرَنَا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ:

fed; and the milk of the milch animal can be drunk according to what one spends on it. The one who rides the animal or drinks its milk should provide the expenditures.”

أَخْبَرَنَا زَكَرِيَّا، عَنِ الشَّعْبِيِّ، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «الظَّهُرُ يَرْكَبُ بِنَفَقَتِهِ إِذَا كَانَ مَرْهُونًا، وَلَبَنُ الدَّرِّ يُشْرَبُ بِنَفَقَتِهِ إِذَا كَانَ مَرْهُونًا. وَعَلَى الَّذِي يَرْكَبُ وَيُشْرَبُ النَّفَقَةُ». [راجع: ٢٥١١]

(5) CHAPTER. Mortgaging things to Jews and others.

(٥) بَابُ الرَّهْنِ عِنْدَ الْيَهُودِ وَغَيْرِهِمْ

2513. Narrated 'Aishah رضي الله عنها: Allāh's Messenger ﷺ bought some foodstuff from a Jew and mortgaged his armour to him.

٢٥١٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا جَرِيرٌ، عَنِ الْأَعْمَشِ، عَنِ إِبْرَاهِيمَ، عَنِ الْأَسْوَدِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: اشْتَرَى رَسُولُ اللَّهِ ﷺ مِنْ يَهُودِيٍّ طَعَامًا وَرَهْنَهُ دِرْعَهُ. [راجع: ٢٥٦٨]

(6) CHAPTER. If a dispute arises between the mortgagor and mortgagee, a proof is to be provided by the plaintiff, otherwise the defendant has to take an oath (if he insists on denying the plaintiff's claim).

(٦) بَابُ إِذَا اخْتَلَفَ الرَّاهِنُ وَالْمُرْتَهِنُ وَنَحْوُهُ فَالْيَمِينَةُ عَلَى الْمُدْعَى عَلَى الْيَمِينِ عَلَى الْمُدْعَى عَلَيْهِ

2514. Narrated Ibn Abū Mulaika: I wrote a letter to Ibn 'Abbās and he wrote to me that the Prophet ﷺ had given the verdict that the defendant had to take an oath.

٢٥١٤ - حَدَّثَنَا خَلَادُ بْنُ يَحْيَى: حَدَّثَنَا نَافِعُ بْنُ عُمَرَ، عَنِ ابْنِ أَبِي مُلَيْكَةَ قَالَ: كَتَبْتُ إِلَى ابْنِ عَبَّاسٍ فَكَتَبَ إِلَيَّ: أَنَّ النَّبِيَّ ﷺ قَضَى أَنْ الْيَمِينَ عَلَى الْمُدْعَى عَلَيْهِ. [انظر: ٤٥٥٢، ٢٦٦٨]

2515, 2516. Narrated Abū Wā'il: 'Abdullāh (bin Mas'ūd) رضي الله عنه said, "Whoever took a false oath in order to grab somebody's property will meet Allāh while Allāh will be angry with him." Allāh revealed the following Verse to confirm that:

٢٥١٥، ٢٥١٦ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ: حَدَّثَنَا جَرِيرٌ، عَنْ مَنْصُورٍ، عَنْ أَبِي وَائِلٍ قَالَ: قَالَ عَبْدُ اللَّهِ رَضِيَ اللَّهُ عَنْهُ: مَنْ حَلَفَ عَلَى يَمِينٍ

“Verily, those who purchase a small gain at the cost of Allāh’s Covenant and their oaths, (to)... painful torment.” (V.3:77)

Al-Ash‘ath bin Qais came to us and asked as to what Abū Abdur-Rahmān (i.e., Ibn Mas‘ūd) was telling us.” We related the story to him. On that he said, “He has told the truth. This Verse was revealed about me. I had some dispute with another man regarding a well and we took the case before Allāh’s Messenger ﷺ. Allāh’s Messenger ﷺ said (to me), ‘Produce two witnesses (to support your claim); otherwise the defendant has the right to take an oath (to refute your claim).’ I said, ‘The defendant would not mind to take a false oath.’ Allāh’s Messenger ﷺ then said, ‘Whoever took a false oath in order to grab someone else’s property will meet Allāh, and Allāh will be angry with him.’ Allāh then revealed what confirmed it.” Al-Ash‘ath then recited the following Verse :

“Verily, those who purchase a small gain at the cost of Allāh’s Covenant, and their oaths... (to)... they shall have a painful torment!” (V.3:77)

[See *Hadith* No.2356, 2357]

يَسْتَحِقُّ بِهَا مَالًا وَهُوَ فِيهَا فَاجِرٌ لِقِيِّ
اللَّهِ وَهُوَ عَلَيْهِ غَضَبَانُ ثُمَّ أَنْزَلَ اللَّهُ
تَصْدِيقَ ذَلِكَ ﴿إِنَّ الَّذِينَ يَشْتَرُونَ بِعَهْدِ
اللَّهِ وَأَيْمَانِهِمْ ثَمَنًا قَلِيلًا﴾ فَقَرَأَ إِلَى
﴿عَذَابٍ أَلِيمٍ﴾ [آل عمران: ٧٧] ثُمَّ إِنَّ
الْأَشْعَثَ بْنَ قَيْسٍ خَرَجَ إِلَيْنَا فَقَالَ:
مَا يُحَدِّثُكُمْ أَبُو عَبْدِ الرَّحْمَنِ؟ قَالَ:
فَحَدَّثْنَا، قَالَ: فَقَالَ: صَدَقَ، لِقِيِّ
نَزَلَتْ، كَانَتْ بَيْنِي وَبَيْنَ رَجُلٍ
حُصُومَةٌ فِي بئرٍ فَأَخْتَصَمْنَا إِلَى رَسُولِ
اللَّهِ ﷺ فَقَالَ رَسُولُ اللَّهِ ﷺ:
«شَاهِدَاكَ أَوْ يَمِينُهُ». قُلْتُ: إِنَّهُ إِذَا
يَخْلِفَ وَلَا يُبَالِي، فَقَالَ رَسُولُ اللَّهِ
ﷺ: «مَنْ حَلَفَ عَلَى يَمِينٍ يَسْتَحِقُّ
بِهَا مَالًا وَهُوَ فِيهَا فَاجِرٌ، لِقِيِّ اللَّهِ
وَهُوَ عَلَيْهِ غَضَبَانُ»، ثُمَّ أَنْزَلَ اللَّهُ
تَصْدِيقَ ذَلِكَ، ثُمَّ اقْتَرَأَ هَذِهِ الْآيَةَ
﴿إِنَّ الَّذِينَ يَشْتَرُونَ بِعَهْدِ اللَّهِ وَأَيْمَانِهِمْ
ثَمَنًا قَلِيلًا﴾ إِلَى ﴿وَلَهُمْ عَذَابٌ أَلِيمٌ﴾
[آل عمران: ٧٧]. [راجع: ٢٣٥٦، ٢٣٥٧]