

[بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ]

In the Name of Allāh, the Most Beneficent, the Most Merciful

22. The Chapters On Wills

(المعجم ٢٢) أَبْوَابُ الْوَصَايَا
(التحفة ١٤)

To make a will means to take a pledge from one that he, the testator, in his life or after death will do this and this. This can be applied to another person as well.

It is carried out by appointing someone after one's death to gift one's property to someone. It can be property, wealth or anything of benefit in any shape.

The kinds of Wills are:

1. *Wājib* (Compulsory): This kind of will is compulsory to follow—that is carrying out the obligations like payment of debt, the return of entrusted things, expiations etc.
2. *Mustahab* (Desirable): Making a will for relatives other than heirs is commended.
3. *Mubah* (Permissible): Making a will for relatives other than heirs who are already rich is permitted.
4. *Makruh Tahrimi* (Undesirable to the point of being forbidden): Making a will for sinners and disbelievers in Allāh is not approved. (Allāh knows better.)

Chapter 1. Did The Messenger Of Allāh ﷺ Make A Will?

2695. It was narrated that 'Āishah said: "The Messenger of Allāh ﷺ did not leave behind a Dinār nor a Dirham, nor a sheep nor a camel, and he did not make a will concerning anything." (Sahih)

(المعجم ١) - [بَابُ] وَهَلْ أَوْصَى
رَسُولُ اللَّهِ ﷺ (التحفة ١)

٢٦٩٥ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ: حَدَّثَنَا أَبِي وَ أَبُو مُعَاوِيَةَ؛ ح: وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ وَ عَلِيُّ بْنُ مُحَمَّدٍ، قَالَ: حَدَّثَنَا أَبُو مُعَاوِيَةَ، قَالَ أَبُو بَكْرٍ: وَ عَبْدِ اللَّهِ ابْنُ نُمَيْرٍ عَنِ الْأَعْمَشِ عَنِ شَقِيقٍ، عَنْ مَسْرُوقٍ، عَنْ عَائِشَةَ قَالَتْ: مَا تَرَكَ رَسُولُ اللَّهِ ﷺ دِينَارًا وَلَا دِرْهَمًا، وَلَا شَاةً وَلَا بَعِيرًا، وَلَا أَوْصَى بِشَيْءٍ.

تخریج: أخرجه مسلم، الوصية، باب ترك الوصية لمن ليس له شيء يوصي فيه، ح: ١٦٣٥ عن محمد بن عبدالله بن نمير به.

Comments:

- Allāh's Messenger ﷺ said, "My heirs will not inherit a Dinār or Dirham (i.e., money) for whatever I have, excluding adequate support of wives and wages of my employees, is to be given in charity." (*Sahih Al-Bukhāri*: 2776)
- There is an opinion that the Noble Prophet ﷺ made some particular wills, especially in favor of his caliphate. This opinion is totally wrong and baseless as 'Ali himself denied it. (See *Ahādith* 2652 & 2698)

2696. It was narrated from Mālik bin Mighwal that Talhah bin Musarrif said: "I said to 'Abdullāh bin Abu Awfa: 'Did the Messenger of Allāh ﷺ make a will concerning anything?' He said: 'No.' I said: 'How come he told the Muslims to make wills?' He said: 'He enjoined (them to adhere to) the Book of Allāh.'" Mālik said: "Talhah bin Musarrif said: 'Huzail bin Shurahbil said: "Abu Bakr was granted leadership according to the will of Allāh's Messenger ﷺ?" (Rather) Abu Bakr wished that he found a covenant (in that regard) from Allāh's Messenger ﷺ, so he could fetter his nose with a (camel's) nose ring."^[1] (*Sahih*)

٢٦٩٦ - حَدَّثَنَا عَلِيُّ بْنُ مُحَمَّدٍ: حَدَّثَنَا وَكَيْعٌ عَنْ مَالِكِ بْنِ مِغْوَالٍ، عَنْ طَلْحَةَ بْنِ مُصَرِّفٍ قَالَ: قُلْتُ لِعَبْدِ اللَّهِ بْنِ أَبِي أَوْفَى: أَوْصَى رَسُولُ اللَّهِ ﷺ بِشَيْءٍ؟ قَالَ: لَا. قُلْتُ: فَكَيْفَ أَمَرَ الْمُسْلِمِينَ بِالْوَصِيَّةِ؟ قَالَ: أَوْصَى بِكِتَابِ اللَّهِ.

قَالَ مَالِكٌ: وَقَالَ طَلْحَةُ بْنُ مُصَرِّفٍ: قَالَ الْهَزَيْلُ بْنُ شُرَحْبِيلَ: أَبُو بَكْرٍ كَانَ يَتَأَمَّرُ عَلَى وَصِيَّةِ رَسُولِ اللَّهِ ﷺ؟ وَدَّ أَبُو بَكْرٍ أَنَّهُ وَجَدَ مِنْ رَسُولِ اللَّهِ ﷺ عَهْدًا، فَحَزَمَ أَنْفَهُ بِخِزَامٍ.

تخریج: أخرجه البخاري، الوصايا، باب الوصايا، ح: ٤٤٦٠، ٢٧٤٠ من حديث مالك بن مِغْوَالٍ به، ومسلم، الوصية، الباب السابق، ح: ١٦٣٤ من حديث وكيع به، وقول هزيل صحيح، وأخرجه أحمد: ٤/٤٨١، ٤٨٢ عن وكيع به.

Comments:

- The question was about the will of caliphate and Ibn Abu Awfa made it clear that the Prophet ﷺ never made such a will.
- The second question was about the ambiguities as the Noble Prophet ﷺ

[1] Meaning, that there was no will, and that Abu Bakr did not accept the position of leadership happily, and if the claims of the *Rawāfid* that there was a will ordering 'Ali to be the leader were true, then Abu Bakr would have been pleased and ready to follow behind him. See *Injāh Al-Hājjah* by 'Abdul-Ghani Dehlavi.

ordered the Muslims to make will, he must have made one particularly about the caliphate, that 'so-and-so will be the caliph after me.' The answer to this ambiguity was that the Noble Prophet ﷺ ordered acting upon the complete Qur'ân. There is an order in the Noble Qur'ân "Obey those who are in authority."

- c. The most important and foremost feature of Abu Bakr's nature was to follow the Noble Prophet ﷺ. Therefore, it was impossible that if the Prophet ﷺ had appointed 'Ali as his caliph, he could have dared to deny the orders of the Prophet ﷺ, rather he would have loved to go to any extent to obey the caliph appointed by the Prophet ﷺ.

2697. It was narrated that Anas bin Mâlik said: "What the Messenger of Allâh ﷺ most enjoined when he was dying and breathing his last was: The prayer; and those whom your right hands possess.'" (*Da'if*)

٢٦٩٧ - حَدَّثَنَا أَحْمَدُ بْنُ الْوُقْدَانَ: حَدَّثَنَا الْمُعْتَمِرُ بْنُ سُلَيْمَانَ: سَمِعْتُ أَبِي يُحَدِّثُ عَنْ قَتَادَةَ عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: كَانَتْ عَامَّةُ وَصِيَّةِ رَسُولِ اللَّهِ ﷺ حِينَ خَصَرْتَهُ الْوَفَاءُ، وَهُوَ يُرَغِرُ بِنَفْسِهِ: الصَّلَاةَ. وَمَا مَلَكَتْ أَيْمَانُكُمْ.

تخریج: [إسناده ضعيف] أخرجه أحمد: ١١٧/٣ من حديث سليمان التيمي به، وصححه ابن حبان (موارد)، ح: ١٢٢٠، وحسنه البوصيري، وأخرجه أبو يعلى: ٣٤٧/٥، ح: ٢٩٩٠ عن أحمد ابن المقدم به، وتابعه هريم بن عبد الأعلى أبو حمزة الأسدي عنده (ص: ٣٠٩، ح: ٢٩٣٣) عن المعتمر به * قتادة عن عن تقدم، ح: ١٧٥، ولجديته شواهد، كلها ضعيفة انظر، ح: ١٦٢٥، والحديث الآتي وغيرهما، الله أعلم.

2698. It was narrated that 'Ali bin Abu Tâlib said: "The last words of the Prophet ﷺ were: The prayer; and those whom your right hands possess.'" (*Da'if*)

٢٦٩٨ - حَدَّثَنَا سَهْلُ بْنُ أَبِي سَهْلٍ: حَدَّثَنَا مُحَمَّدُ بْنُ فُضَيْلٍ عَنْ مُغِيرَةَ، عَنْ أُمِّ مُوسَى، عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ، قَالَ: كَانَ آخِرُ كَلَامِ النَّبِيِّ ﷺ: الصَّلَاةَ وَمَا مَلَكَتْ أَيْمَانُكُمْ.

تخریج: [إسناده ضعيف] أخرجه أبو داود، الأدب، باب في حق المملوك، ح: ٥١٥٦ من حديث محمد بن فضيل به * مغيرة عن عن تقدم، ح: ١٣٠٢، وأم موسى مجهولة الحال، وللحديث شواهد كلها ضعيفة.

Comments:

- a. Prayer on time is among the most important obligations in Islam, therefore, the Noble Prophet ﷺ at the time of his departure from this world, emphasized offering prayers regularly and on time.

- b. Slaves belong to the most destitute class of society, but Islam gave them respect and honor, and they held highly esteemed posts in Islamic society. Kingship of Slave Dynasty, in the subcontinent is a well-known example.
- c. The last word which can be deemed the last will of the Noble Prophet ﷺ was "O Allāh (with) the highest companions."
- d. As we make wills regarding worldly matters, in the same way, we ought to make wills concerning duties of the faith.
- e. The last words or last will of the Noble Prophet ﷺ are equally concerned and relevant to this world and the Hereafter.

Chapter 2. Exhortation To Make A Will

(المعجم ٢) - بَابُ الْحَثِّ عَلَى الْوَصِيَّةِ (التحفة ٢)

2699. It was narrated from Ibn 'Umar that the Messenger of Allāh ﷺ said: "The Muslim man has no right to spend two nights, if he has something for which a will should be made, without having a written will with him." (Sahih)

٢٦٩٩ - حَدَّثَنَا عَلِيُّ بْنُ مُحَمَّدٍ: حَدَّثَنَا عَبْدُ اللَّهِ بْنُ نُمَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَا حَقَّ امْرِئٍ مُسْلِمٍ أَنْ يَبْتَئِنَ لَيْلَتَيْنِ وَلَهُ شَيْءٌ يُوصِي فِيهِ، إِلَّا وَوَصِيَّتَهُ مَكْتُوبَةً عِنْدَهُ».

تخريج: أخرجه مسلم، الوصية، باب: وصية الرجل مكتوبة عنده، ح: ١٦٢٧ من حديث ابن نمير به، أخرجه البخاري، الوصايا، باب الوصايا، ح: ٢٧٣٨ من حديث مالك به.

Comments:

- a. The reward and benefits of the will begin after death, when the commands of the will are carried out.
- b. No human knows the moment of his death, therefore, a will should always be kept ready. A Muslim should always be ready to welcome the moment of death.
- c. One can make changes at times, according to the circumstances, in a will written earlier.
- d. Written details of debt and matters entrusted to others should always be kept ready at hand.

2700. It was narrated from Anas bin Mâlik that the Messenger of Allāh ﷺ said: "The one who is deprived is the one who is deprived of a will." (Da'if)

٢٧٠٠ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ الْجَهْضَمِيُّ: حَدَّثَنَا دُرَيْشُ بْنُ زَبَادٍ: حَدَّثَنَا يَزِيدُ الرَّقَاشِيُّ عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «الْمَحْرُومُ مَنْ حُرِمَ وَصِيَّتَهُ».

تخریج: [إسناده ضعيف] وقال البوصيري: هذا إسناده ضعيف لضعف الرقاشي تقدم، ح: ١٠٨٠، والراوي عنه .

Comments:

The sense of the narration is that one who died without making a written will, remained deprived of the benefits he could have if he had written one. For example, if he had advised in the will to give charity to pay the debt etc., he could have availed the benefits after his death. The one who does not write the will, remains deprived of such blessing.

2701. It was narrated from Jābir bin ‘Abdullāh that the Messenger of Allāh ﷺ said: “Whoever dies leaving a will, he dies on the right path and *Sunnah*, and he dies with piety and witness, and he dies forgiven.” (*Da’if*)

٢٧٠١ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُصَفَّى الْجَمْصِيُّ: حَدَّثَنَا يَحْيَى بْنُ الْوَلِيدِ، عَنْ يَزِيدِ بْنِ عَوْفٍ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ مَاتَ عَلَى وَصِيَّةٍ، مَاتَ عَلَى سَبِيلٍ وَسَيِّئَةٍ. وَمَاتَ عَلَى تَقَى وَشَهَادَةٍ. وَمَاتَ مَغْفُورًا لَهُ».

تخریج: [إسناده ضعيف جداً] وضعفه البوصيري، وأخرجه ابن عدي: ١٦٨٥/٥ عن بقية: حدثني يزيد بن عوف حدثني عمر بن صبح عن أبي الزبير عن جابر به ... الخ * يزيد مجهول (تقريب)، عمر بن صبح متروك، كذبه ابن راهويه (أيضاً)، ولعله لوضوح أمره أسقطه محمد ابن المصنفى، وكان يدللس كما في التقريب وغيره، وبقية تقدم، ح: ٧١٢، ٥٥١.

2702. It was narrated from Ibn ‘Umar that the Prophet ﷺ said: “The Muslim man has no right to spend two nights, if he has something for which a will should be made, without having a written will with him.” (*Sahih*)

٢٧٠٢ - حَدَّثَنَا مُحَمَّدُ بْنُ مَعْمَرٍ: حَدَّثَنَا رَوْحٌ [عَنِ] ابْنِ عَوْنٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَا حَقُّ امْرِئٍ مُسْلِمٍ بَيْتَ لَيْلَتَيْنِ، وَلَهُ شَيْءٌ يُوصِي بِهِ، إِلَّا وَوَصِيَّتَهُ مَكْتُوبَةً عِنْدَهُ».

تخریج: أخرجه البخاري من حديث مالك عن نافع به، انظر، ح: ٢٦٩٩ وأخرجه النسائي: ٢٣٩/٦، ح: ٣٦٤٧ بإسناد صحيح عن ابن المبارك عن ابن عون عن نافع عن ابن عمر قوله، يعني أنه موقوف، قلت: وقع في الأصل: روح بن عوف عن نافع، وفي النسخ الهندية، روح بن عون عن نافع، والصبواب: روح عن ابن عون عن نافع، والله أعلم * وروح هو ابن عبادة، وهذا السند لم يذكره الإمام المزني رحمه الله في تحفة الأشراف: ١١٢/٦ .

Chapter 3. Injustice In Wills (المعجم ٣) - بَابُ الْحَيْفِ فِي الْوَصِيَّةِ (التحفة ٣)

2703. It was narrated from Anas

٢٧٠٣ - حَدَّثَنَا سُؤَيْدُ بْنُ سَعِيدٍ: حَدَّثَنَا عَبْدُ

bin Mâlik that the Messenger of Allâh ﷺ said: "Whoever tries to avoid giving the inheritance to his heirs, Allâh will deprive him of his inheritance in Paradise on the Day of Resurrection." (*Da'if*)

الرَّحِيمِ بْنِ زَيْدِ الْعَمِيِّ، عَنْ أَبِيهِ عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ [فَرَّ] مِنْ مِيرَاثٍ وَارِثِهِ، قَطَعَ اللَّهُ مِيرَاثَهُ مِنَ الْجَنَّةِ يَوْمَ الْقِيَامَةِ».

تخریج: [إسناده ضعيف جداً] وقال البوصيري: هذا إسناد ضعيف لضعف زيد العمي وابنه

عبد الرحيم .

2704. It was narrated from Abu Hurairah that the Messenger of Allâh ﷺ said: "A man may do the deeds of the people of goodness for seventy years, then when he makes his will, he is unjust in his will, so he ends (his life) with evil deeds and enters Hell. And a man may do the deeds of the people of evil for seventy years, then he is just in his will, so he ends (his life) with good deeds and enters Paradise."

٢٧٠٤ - حَدَّثَنَا أَحْمَدُ بْنُ الْأَزْهَرِ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ بْنُ هَمَّامٍ: أَنبَأَنَا مَعْمَرٌ عَنْ أَشْعَثَ ابْنِ عَبْدِ اللَّهِ، عَنْ شَهْرِ بْنِ حَوْشَبٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «إِنَّ الرَّجُلَ لَيَعْمَلُ بِعَمَلِ أَهْلِ الْخَيْرِ سَبْعِينَ سَنَةً. فَإِذَا أَوْصَى حَافٍ فِي وَصِيَّتِهِ. فَيُخْتَمُ لَهُ بِشَرِّ عَمَلِهِ، فَيَدْخُلُ النَّارَ. وَإِنَّ الرَّجُلَ لَيَعْمَلُ بِعَمَلِ أَهْلِ الشَّرِّ سَبْعِينَ سَنَةً. فَيُعْدَلُ فِي وَصِيَّتِهِ، فَيُخْتَمُ لَهُ بِخَيْرِ عَمَلِهِ، فَيَدْخُلُ الْجَنَّةَ».

Abu Hurairah said: "Recite, if you wish: 'These are the limits (set by) Allâh' up to His saying: 'a disgraceful torment'"^[1] (*Hasan*)

قَالَ أَبُو هُرَيْرَةَ: وَأَقْرَأُوا إِنْ شِئْتُمْ: ﴿تِلْكَ حُدُودُ اللَّهِ﴾ إِلَى قَوْلِهِ: ﴿عَذَابٌ مُهِينٌ﴾

[النساء: ١٣، ١٤].

تخریج: [إسناده حسن] أخرجه أبو داود، الوصايا، باب ماجاء في كراهية الإضرار في الوصية، ح: ٢٨٦٧ من حديث أشعث به، وحسنه الترمذي، ح: ٢١١٧ قلت: شهر تقدم حاله، ح: ١٤٩٦، ولم يثبت الجرح المفسر، المسقط للعدالة فيه، وقضية السرقة لم تصح، وقال الذهبي في ديوان الضعفاء (ص: ١٤٥) شهر بن حوشب مختلف فيه وحديثه حسن . . . ، وقال العسقلاني في الفتح: ٦٥/٣ وشهر حسن الحديث وإن كان فيه بعض الضعف .

2705. It was narrated from Mu'awiyah bin Qurrah, from his father that the Messenger of Allâh

٢٧٠٥ - حَدَّثَنَا يَحْيَى بْنُ عُمَرَ بْنِ سَعِيدِ ابْنِ كَثِيرٍ بْنُ دِينَارٍ الْحَمِصِيُّ: حَدَّثَنَا بَقِيَّةٌ عَنْ

[1] *An-Nisâ'* 4:13, 14.

ﷺ said: "Whoever makes a will as death approaches, and his will is in accordance with the Book of Allāh, it will be an expiation for whatever he did not pay of his *Zakāh* during his lifetime." (*Da'if*)

أَبِي حَلِيْسٍ، عَنْ خَلِيْدِ بْنِ أَبِي خَلِيْدٍ، عَنْ مُعَاوِيَةَ بْنِ قُرَّةَ، عَنْ أَبِيهِ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ حَضَرْتَهُ الْوَفَاةُ فَأَوْصَى، وَكَانَتْ وَصِيَّتُهُ عَلَى كِتَابِ اللَّهِ، كَانَتْ كَفَّارَةً لِمَا تَرَكَ مِنْ زَكَاتِهِ فِي حَيَاتِهِ».

تخريج: [إسناده ضعيف] أخرجه الدارقطني: ٤/١٤٨، ١٤٩ من حديث بقية به، وقال البوصيري: هذا إسناد ضعيف، بقية (١١٢١، ٥٥١) مدلس وشيخه أبو حليس مجهول * خليل وتلميذه مجهولان كما في التقريب وغيره، وللحديث شواهد ضعيفة عند الطبراني: ٣٣/١٩ وغيره.

Chapter 4: The Prohibition Of Withholding While Alive, Only To Squander Upon One's Death

(المعجم ٤) - بَابُ النَّهْيِ عَنِ الْإِمْسَاكِ فِي الْحَيَاةِ وَالتَّبْدِيرِ عِنْدَ الْمَوْتِ (التحفة ٤)

2706. It was narrated that Abu Hurairah said: "A man came to the Prophet ﷺ and said: 'O Messenger of Allāh, tell me, which of the people has most right to my good companionship?' He said: 'Yes, by your father, you will certainly be told.'^[1] He said: 'Your mother.' He said, 'Then who?' He said: 'Then your mother.' He said: 'Then who?' He said: 'Then your mother.' He said: 'Then who?' He said: 'Then your father.' He said: 'Tell me, O Messenger of Allāh, about my wealth – how should I give in charity?' He said: 'Yes, by Allāh, you will certainly be told. You should give in charity when

٢٧٠٦ - حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا شَرِيكٌ عَنْ عُمَارَةَ بْنِ الْقَعْقَاعِ وَابْنِ شُبْرَمَةَ، عَنْ أَبِي زُرْعَةَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: جَاءَ رَجُلٌ إِلَى النَّبِيِّ ﷺ فَقَالَ: يَا رَسُولَ اللَّهِ! بَنِّئِي. مَا حَقَّ النَّاسِ مِنِّي بِحُسْنِ الصُّحْبَةِ؟ فَقَالَ: «نَعَمْ. وَأَبِيكَ لَتَبَّانَ». [قَالَ:] «أُمُّكَ» قَالَ: «تُمْ مَنْ؟» قَالَ: «تُمْ أُمُّكَ» قَالَ: «تُمْ مَنْ؟» قَالَ: «تُمْ أَبُوكَ» قَالَ: بَنِّئِي يَا رَسُولَ اللَّهِ عَنْ مَالِي كَيْفَ أَنْصَدُقُ فِيهِ؟ قَالَ: «نَعَمْ. وَاللَّهِ لَتَبَّانَ. [أَنْ] تَصَدَّقَ وَأَنْتَ صَاحِبٌ شَاحِبٌ. تَأْمُلُ الْعَيْشَ وَتَخَافُ الْفَقْرَ. وَلَا تُمْهَلُ. حَتَّى إِذَا

[1] The commentaries say that it was either the type of statement that comes upon the tongue without intending its actual meaning, or, that this was stated prior to the narrations which forbid swearing by one's father. And some of them said that narrations such as this prove that the prohibition for swearing by one's father are intended to censure, not to make it absolutely prohibited. The second view appears most likely, and is the safest view, and indeed Allāh knows best.

you are still healthy and greedy for wealth, hoping for a long life and fearing poverty. Do not tarry until your soul reaches here and you say: "My wealth is for so-and-so," and "My wealth is for so-and-so," and it will be for them even though you dislike that.'" (*Sahih*)

بَلَعْتَ نَفْسَكَ هَهُنَا، قُلْتَ: مَالِي لِفُلَانٍ، وَمَالِي لِفُلَانٍ. وَهُوَ لَهُمْ، وَإِنْ كَرِهْتَ».

تخریج: أخرجه البخاري، الأدب، باب من أحق الناس بحسن الصحبة، ح: ٥٩٧١ من حديث عمارة به، ومسلم، البر والصلة والأدب، باب بر الوالدين وأيهما أحق به، ح: ٢٥٤٨ عن أبي بكر بن أبي شيبة به.

Comments:

- To emphasize one's point swearing by Allāh is legal.
- Before answering the question, saying words as a start of the talk attracts the listener's attention, as the Noble Prophet ﷺ said, "Yes you will certainly be told."
- An oath can only be taken by the Name of Allāh. It is not legal to take an oath over other than Allāh's Name, as in authentic *Ahādith* it has been made clear. The Prophet ﷺ said; "Verily! Allāh ﷻ forbids you to swear by your fathers. If one has to take an oath he should swear by Allāh or keep quite." (*Sahih Al-Bukhārī*: 6108.) In this *Hadith* the oath taken by the father is either before the time when it was prohibited, or just a part of Arabian culture, as a habitual custom. It was common in Arabia that during conversation some additional words or phrases without any particular intention were added.

2707. It was narrated that Busr bin Jahhāsh Al-Qurashi that the Prophet ﷺ spat in his palm then pointed to it with his index finger and said: "Allāh says: 'Do you think you can escape from My punishment, O son of Ādam, when I have created you from something like this? When your soul reaches here' – and (the Prophet ﷺ) pointed to his throat – 'You say: I give charity.' But it is too late for charity?'" (*Sahih*)

٢٧٠٧ - حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: أُنْبَأَنَا حَرِيزُ بْنُ عُثْمَانَ: حَدَّثَنِي عَبْدُ الرَّحْمَنِ بْنُ مَيْسَرَةَ، عَنْ جُبَيْرِ بْنِ نُفَيْرٍ، عَنْ بَسْرِ بْنِ جَحَاشِ الْقُرَشِيِّ قَالَ: بَرَقَ النَّبِيُّ ﷺ فِي كَفِّهِ. ثُمَّ وَضَعَ إِصْبَعَهُ السَّبَابَةَ وَقَالَ: «يَقُولُ اللَّهُ عَزَّ وَجَلَّ: أَلَمْ يَتَعَجَّرْنِي، ابْنُ آدَمَ وَقَدْ خَلَقْتَنِي مِنْ مِثْلِ هَذِهِ. فَإِذَا بَلَعْتَ نَفْسَكَ [إِلَى] هَذِهِ - وَأَشَارَ إِلَيَّ حَلْقِهِ - قُلْتَ: أَتَصَدَّقُ. وَأَلَمْ يَأْتِ وَأَوَّانُ الصَّدَقَةِ؟».

تخریج: [إسناده صحيح] أخرجه أحمد: ٢١٠/٤ وغيره من طرق عن حريز به، وتابعه ثور ابن يزيد الرحبي عند الطبراني: ٣٢/٢، وصححه الحاكم: ٣٢٣/٤، ٥٠٢/٢، والذهبي، والبيهقي.

Comments:

- a. Allāh is the Creator of man, and has all authority and control over His creation. Man, in all his needs and requirements stands in need of Allāh and cannot do anything without His guidance.
- b. This is Allāh's mercy and favor, that He created man from a clot (a petty thing) and made him most eminent of all creation.

Chapter 5. Making A Will For One Third

(المعجم ٥) - بَابُ الْوَصِيَّةِ بِالثُّلْثِ

(التحفة ٥)

2708. It was narrated from 'Āmir bin Sa'd that his father said: "I became sick during the year of the Conquest, and was at death's door. The Messenger of Allāh ﷺ came to visit me and I said: 'O Messenger of Allāh, I have a great deal of wealth and no one will inherit from me apart from my daughter. Can I give two thirds of my wealth in charity?' He said: 'No.' I said: 'Then half?' He said: 'No.' I said: 'One third?' He said: 'One third, and one third is a lot. If you leave your heirs rich that is better than leaving them destitute and begging from people.'" (Sahih)

٢٧٠٨ - حَدَّثَنَا هِشَامُ بْنُ عَمَّارٍ، وَ الْحُسَيْنُ ابْنُ الْحَسَنِ الْمُرُوزِيُّ، وَ سَهْلٌ قَالُوا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ عَامِرِ بْنِ سَعْدٍ، عَنْ أَبِيهِ قَالَ: مَرَضْتُ عَامَ الْفَتْحِ حَتَّى أَشْفَيْتُ عَلَى الْمَوْتِ. فَعَادَنِي رَسُولُ اللَّهِ ﷺ. فَقُلْتُ: أَيُّ رَسُولِ اللَّهِ إِنَّ لِي مَالًا كَثِيرًا. وَلَيْسَ يَرْتَبِي إِلَّا ابْنَةٌ لِي. أَفَأَتَصَدَّقُ بِثُلْثِي مَالِي؟ قَالَ: «لَا» قُلْتُ: فَالْشُّطْرُ؟ قَالَ: «لَا» قُلْتُ: فَالثُّلُثُ؟ قَالَ: «الثُّلُثُ. وَالثُّلُثُ كَثِيرٌ. أَنْ تَذَرَ وَرَثَتَكَ أَغْنِيَاءَ، خَيْرٌ مِنْ أَنْ تَذَرَهُمْ عَالَةً يَتَكَفَّمُونَ النَّاسَ».

تخریج: أخرجه البخاري، الفرائض، باب ميراث البنات، ح: ٦٧٣٣، ومسلم، الوصية، باب

الوصية بالثلث، ح: ١٦٢٨ من حديث سفیان به.

Comments:

- a. Visiting a sick person is a highly appreciated deed and it is a sick man's right that people should visit him.
- b. When one feels that his time of death is approaching near, he can make a will for giving alms from his wealth, but not more than one third.
- c. It is better if the will is made for less than one third. The Noble Prophet ﷺ, in spite of recommending one third deemed it 'a lot'. According to 'Abdullāh bin Abbās, one third is a large part, and will should be for less than one third.

2709. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: "Allāh has been

٢٧٠٩ - حَدَّثَنَا عَلِيُّ بْنُ مُحَمَّدٍ: حَدَّثَنَا وَكِيعٌ عَنْ طَلْحَةَ بْنِ عَمْرٍو، عَنْ عَطَاءٍ، عَنْ أَبِي

charitable with you over the disposal of one third of your wealth at the time of your death, so that you may be able to add to the record of your good deeds.”
(*Da'if*)

هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «إِنَّ اللَّهَ تَصَدَّقَ عَلَيْكُمْ، عِنْدَ وَفَاتِكُمْ، بِثُلْثِ أَمْوَالِكُمْ، زِيَادَةً لَكُمْ فِي أَعْمَالِكُمْ».

تخريج: [إسناده ضعيف] أخرجه البيهقي: ٢٦٩/٦ من حديث طلحة بن عمرو به، وضعفه البوصيري من أجل طلحة تقدم، ح: ٨٥٧، وتابعه عقبة بن عبدالله الأصم عن عطاء به، عند أبي نعيم في الحلية: ٣/٣٢٢ * وعقبة ضعيف (تقريب)، وللحديث طرق كلها ضعيفة.

Comments:

- Divine laws of Islamic faith are equally beneficial for this world and the Hereafter.
- A dead person gets the rewards and benefits of his will when it is carried out after his death.

2710. It was narrated from Ibn 'Umar that the Messenger of Allâh ﷺ said: "(Allâh says:) O son of Âdam! I have given you two things which you do not deserve (except by the mercy of Allâh): I allow you to dispose of a share of your wealth when you are on your deathbed, in order to cleanse and purify you, and My slaves pray for you after your life is over." (*Da'if*)

٢٧١٠ - حَدَّثَنَا صَالِحُ بْنُ مُحَمَّدٍ بْنِ يَحْيَى ابْنِ سَعِيدِ الْقَطَّانِ: حَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ مُوسَى: أَنَّ بَنَاتَنَا مُبَارَكُ بْنُ حَسَّانَ عَنْ نَافِعٍ، عَنِ ابْنِ عَمْرٍو قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «إِنَّ اللَّهَ عَزَّ وَجَلَّ يَقُولُ: يَا ابْنَ آدَمَ ائْتَانِ لِمَ نَكُنْ لَكَ وَاحِدَةً مِنْهُمَا: جَعَلْتُ لَكَ نَصِيبًا مِنْ مَالِكَ حِينَ أَحَدْتُ بِكَ ظَمِيمِكَ، لِأَطْهَرَكَ بِهِ وَأَرْكَبِكَ. وَصَلَاةُ عِبَادِي عَلَيْكَ، بَعْدَ انْقِضَاءِ أَجَلِكَ».

تخريج: [إسناده ضعيف] أخرجه الدارقطني: ١٤٨/٤ من حديث عبيد الله بن موسى به * مبارك بن حسان وضعفه البيهقي (شعب الإيمان: ٥٧/٧)، والجمهور، وهي علة الخبر.

Comments:

Offering of funeral prayer for Muslims is an obligation and a blessing of Allâh on his deceased slave. Muslim brothers pray for him, and Allâh forgives His slave and elevates his status by accepting the prayers. 'Prayer' may mean the supplication which a Muslim makes for other Muslims brothers.

2711. It was narrated that Ibn 'Abbâs said: "I would like the people to reduce (the will) from

٢٧١١ - حَدَّثَنَا عَلِيُّ بْنُ مُحَمَّدٍ: حَدَّثَنَا وَكَيْعٌ عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنِ ابْنِ

one third to one quarter, because the Messenger of Allāh ﷺ said: 'One third is a lot.' (Sahih)

عَبَّاسٍ قَالَ: وَدِدْتُ أَنَّ النَّاسَ غَضُّوا مِنْ
الثُّلُثِ إِلَى الرَّبْعِ. لِأَنَّ رَسُولَ اللَّهِ ﷺ قَالَ:
«الثُّلُثُ كَبِيرٌ أَوْ كَثِيرٌ».

تخريج: أخرجه البخاري، الوصايا، باب الوصية بالثلث، ح: ٢٧٤٣ من حديث هشام،
ومسلم، الوصية، باب الوصية بالثلث، ح: ١٦٢٩ من حديث وكيع به.

Chapter 6. There Is No Bequest For An Heir

(المعجم ٦) - بَابُ: لَا وَصِيَّةَ لِوَارِثِ
(النحفة ٦)

2712. It was narrated from 'Amr bin Khârijah: "The Prophet ﷺ addressed them when he was on his camel. His camel was chewing its cud and its saliva was dripping between my shoulders. He said: 'Allāh has allocated for each heir his share of the inheritance, so it is not permissible (to make) a bequest for an heir. The child belongs to the bed and the adulterer gets the stone. Whoever claims to belong to someone other than his father, or (a freed slave) who claims that his *Walâ*^[1] is for other than his *Mawâli*, upon him will be the curse of Allāh, the angels and all the people, and no change nor equitable exchange will be accepted from him."^[2] Or he said: "No equitable exchange nor change." (Hasan)

٢٧١٢ - حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا
يَزِيدُ بْنُ هَارُونَ: أَنَّ أَبَانَ سَعِيدُ بْنُ أَبِي عَرُوبَةَ
عَنْ قَتَادَةَ، عَنْ شَهْرِ بْنِ حَوْشَبٍ، عَنْ عَبْدِ
الرَّحْمَنِ بْنِ غَنَمٍ، عَنْ عَمْرِو بْنِ خَارِجَةَ أَنَّ
النَّبِيَّ ﷺ خَطَبَهُمْ وَهُوَ عَلَى رَاحِلَتِهِ. وَإِنَّ
رَاحِلَتَهُ لَتَقْضَعُ بِجُرْدِهَا. وَإِنَّ لُغَامَهَا لَيَسِيلُ
بَيْنَ كَفَيْي قَالَ: «إِنَّ اللَّهَ قَسَمَ لِكُلِّ وَاوِرِثٍ
نَصِيْبَهُ مِنَ الْمِرَاثِ. فَلَا يَجُوزُ لِوَارِثٍ
وَصِيَّةٌ. الْوَلَدُ لِلْفِرَاشِ وَلِلْعَاهِرِ الْحَجْرُ. وَمَنْ
ادَّعَى إِلَى غَيْرِ أَبِيهِ، أَوْ تَوَلَّى غَيْرَ مَوَالِيهِ،
فَعَلَيْهِ لَعْنَةُ اللَّهِ وَالْمَلَائِكَةِ وَالنَّاسِ أَجْمَعِينَ. لَا
يُقْبَلُ مِنْهُ صَرْفٌ وَلَا عَدْلٌ» أَوْ قَالَ: عَدْلٌ وَلَا
صَرْفٌ.

[1] Referring to the relationship of inheritance between the freed slave and the one who freed him. In most cases, the freed slave's tribe name will be the same as that of the one who freed him. See no. 2609.

[2] No *Sarf* – they say it means no repentance, which is changing from the state of disobedience to the state of obedience; and no *Adl* – meaning no equity through ransoming. And it is said to be for the purpose of stressing the gravity of the wrong. See explanation by Sindi. See no. 2635.

تخریج: [إسناده حسن] أخرجه الترمذي، الوصايا، باب ماجاء لا وصية لوارث، ح: ٢١٢١ من حديث قتادة به، وقال: حسن صحيح وأخرجه النسائي: ٢٤٧/٦، ح: ٣٦٧٢ من طريق شعبة عن قتادة به.

Comments:

- The share of inheritance for the relatives which has been fixed by Allāh, they must get it accordingly.
- In the case of the share of inheritance for relatives which have not been fixed by Allāh, making an adequate will for them is commanded.
- By making an excuse for an orphan grandson, allegations are placed on the system of Islamic inheritance. For example one man has two sons, one is alive and the other has died, but the son who has died has a son who is alive. It means the deceased has an orphan grandson who, according to the law of inheritance, is not liable to inherit anything from the property of his grandfather, because in the presence of a close relative from the father's side, a distant relative is not liable of getting any share. In such a rare and uncommon situation, making change in Divine law is a great audacity, whereas a legal way out is available in the laws of inheritance. A person, before his death, can advise giving his orphan grandson an adequate share of his wealth, or the legal heirs can give him some share from their own shares, as they think proper.
- To make a will in favor of legal heirs is not permitted, because if this will is in accordance with the law of inheritance, there is no need for it, as they get it automatically, and if this is not in accordance with the law of inheritance, it is not legal to carry out in and it will be dismissed by itself.
- This narration that the child belongs to the bed has already been explained in *Hadith* no. 2004.
- Bloodline relationship cannot be changed, that is why in Islam there is no concept of adoption. According to the Islamic point of view, to adopt someone as a son is a great sin.
- The relationship of *Walā* is also unchangeable. One who has freed a slave is his *Mawālī*, and a freed slave cannot say anyone else is his *Mawālī* as it is a great sin.

2713. Shurahbil bin Muslim Al-Khawlāni narrated from Abu Umāmah Al-Bāhili that he heard the Messenger of Allāh ﷺ say in his sermon, during the year of the Farewell pilgrimage: "Allāh has given each person who has rights his rights, and there is no bequest for an heir." (*Hasan*)

٢٧١٣ - حَدَّثَنَا هِشَامُ بْنُ عَمَّارٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ عِيَّاشٍ: حَدَّثَنَا شُرَحْبِيلُ بْنُ مُسْلِمٍ الْخَوْلَانِيُّ. سَمِعْتُ أَبَا أُمَامَةَ الْبَاهِلِيَّ يَقُولُ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ فِي خُطْبَتِهِ، عَامَ حَجَّةِ الْوَدَاعِ: «إِنَّ اللَّهَ قَدْ أَعْطَى كُلَّ ذِي حَقٍّ حَقَّهُ. فَلَا وَصِيَّةَ لَوَارِثٍ».

تخریج: [إسناده حسن] أخرجه أبو داود، الوصايا، باب ماجاء في الوصية للوارث،

ح: ٢٨٧٠، ٣٥٦٥ من حديث إسماعيل به، وحسنه الترمذي، ح: ٢١٢٠.

2714. It was narrated that Anas bin Mālik said: "I was under the she-camel of the Messenger of Allāh ﷺ and its saliva was dripping between my shoulders, and I heard him say: 'Allāh has given each person who has rights his rights, but there is no bequest for an heir.'" (Sahih)

٢٧١٤ - حَدَّثَنَا هِشَامُ بْنُ عَمَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ شُعَيْبٍ بْنُ شَابُورٍ: حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ يَزِيدَ بْنِ جَابِرٍ عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ أَنَّهُ حَدَّثَهُ عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: إِنِّي لَتَحْتِ نَاقَةِ رَسُولِ اللَّهِ ﷺ يَسِيلُ عَلَيَّ لُعَابُهَا. فَسَمِعْتُهُ يَقُولُ: «إِنَّ اللَّهَ قَدْ أَغْطَى كُلَّ ذِي حَقٍّ حَقَّهُ. أَلَا لَا وَصِيَّةَ لَوَارِثٍ».

تخريج: [صحيح] أخرجه الدارقطني: ٦٩/٤ من حديث ابن جابر به * وسعيد بن أبي سعيد الساحلي (كما في السنن الكبرى للبيهقي: ٢٦٥/٦، والدارقطني، وصرح به ابن عبد الهادي كما في هامش تحفة الأشرف: ١/٢٢٥)، وهو مجهول كما في التقريب، ولحديثه شواهد صحيحة، والحديث صححه البوصيري وغيره.

Chapter 7. Debts Before The Will

(المعجم ٧) - بَابُ: الدَّيْنِ قَبْلَ الوَصِيَّةِ
(التحفة ٧)

2715. It was narrated that 'Ali said: "The Messenger of Allāh ﷺ ruled that the debts should be paid off before the execution of the will. You recite: '(The distribution in all cases is) after the payment of legacies he may have bequeathed or debts.'^[1] The sons of one mother (from the same father) inherit from one another, but not the sons from different mothers (but the same father)." (Da'if)

٢٧١٥ - حَدَّثَنَا عَلِيُّ بْنُ مُحَمَّدٍ: حَدَّثَنَا وَكَيْعٌ: حَدَّثَنَا سُفْيَانُ عَنْ أَبِي إِسْحَاقَ، عَنِ الْحَارِثِ، عَنْ عَلِيٍّ قَالَ: قَضَى رَسُولُ اللَّهِ ﷺ بِالَّذِينَ قَبْلَ الوَصِيَّةِ. وَأَنْتُمْ تَقْرَؤُهَا: ﴿مَنْ بَعْدَ وَصِيَّتِي يُؤْمِي بِهَا أَوْ دَيْنٍ﴾ [النساء: ١١] وَإِنَّ أَعْيَانَ بَنِي الْأُمِّ لَيَتَوَارَثُونَ دُونَ بَنِي الْعَلَاتِ.

تخريج: [إسناده ضعيف] أخرجه الترمذي، الفرائض، باب ماجاء في ميراث الإخوة من الأب والأم، ح: ٢٠٩٤ من حديث سفیان الثوري به، وتابعه سفیان بن عيينة (الترمذي، ح: ٢٠٩٥، ٢١٢٢ وغيره) * الحارث الأعور تقدم حاله، ح: ٩٥، وفيه علة أخرى، ولمفهوم الحديث شاهد حسن تقدم، ح: ٢٤٣٣.

[1] An-Nisā' 4:11.

Comments:

- The issue of debt is important and serious because it remains payable in life and after death as well, whereas the will is carried out after death. On the other hand, whatever the amount of debt is, it must be paid as a will is valid only up to one third of the total amount of legacy. The amount of debt may accede from one third of the legacy.
- First of all, from the wealth of the deceased, expenditure of shrouding and burial rites are deducted. After making the payment of debt from the remaining property, whatever is left, one third or less than one third is paid according to the will, and then the remaining is distributed among the heirs.
- The real brother and sister of the deceased are given priority over the step brothers and sisters.

Chapter 8. If A Person Dies Without Having Made A Will, Can Charity Be Given On His Behalf?

2716. It was narrated from Abu Hurairah that a man asked the Messenger of Allāh ﷺ: "My father died and left behind wealth, but he did not make a will. Will it expiate for him if I give charity on his behalf?" He said: "Yes." (*Sahih*)

(المعجم ٨) - بَابُ مَنْ مَاتَ وَلَمْ يُوصِ
هَلْ يُصَدَّقُ عَنْهُ؟ (التحفة ٨)

٢٧١٦ - حَدَّثَنَا أَبُو مَرْوَانَ مُحَمَّدُ بْنُ عُمَانَ
الْعُمَانِيُّ: حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ أَبِي حَازِمٍ،
عَنِ الْعَلَاءِ بْنِ عَبْدِ الرَّحْمَنِ، عَنْ أَبِيهِ، عَنْ
أَبِي هُرَيْرَةَ أَنَّ رَجُلًا سَأَلَ رَسُولَ اللَّهِ ﷺ
قَالَ: إِنَّ أَبِي مَاتَ وَتَرَكَ مَالًا. وَلَمْ يُوصِ.
فَهَلْ يُكْفَرُ عَنْهُ أَنْ تَصَدَّقْتُ عَنْهُ؟ قَالَ:
«نَعَمْ».

تخریج: أخرجه مسلم، الوصية، باب وصول ثواب الصدقات إلى الميت، ح: ١٦٣٠ من حديث العلاء به.

2717. It was narrated from 'Aishah that a man came to the Prophet ﷺ and said: "My mother died unexpectedly and she had not made a will. I think that if she could have spoken, she would have given in charity. Will she have a reward if I give in charity on her behalf, and will I have a reward?" He said: "Yes." (*Sahih*)

٢٧١٧ - حَدَّثَنَا إِسْحَاقُ بْنُ مَنْصُورٍ: حَدَّثَنَا
أَبُو أُسَامَةَ عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ
عَائِشَةَ أَنَّ رَجُلًا أَتَى النَّبِيَّ ﷺ فَقَالَ: إِنَّ أُمَّي
أَفْطَلْتِ نَفْسَهَا. وَلَمْ تُوصِ. وَإِنِّي أَطْنُهَا لَوْ
تَكَلَّمْتُ لَتَصَدَّقْتُ. فَلَهَا أَجْرٌ إِنْ تَصَدَّقْتُ
عَنْهَا، وَلِي أَجْرٌ؟ فَقَالَ: «نَعَمْ».

تخریج: أخرجه مسلم، الوصية، الباب السابق، ح: ۱۰۰۴ بعد، ح: ۱۶۳۰، والزكوة، باب وصول ثواب الصدقة عن الميت، إليه، ح: ۱۰۰۴ من حديث أبي أسامة به.

Comments:

- Nowadays banquets and feast parties are arranged in the name of sending reward to the dead person, this is not a correct Islamic way to send reward to the deceased. The amount spent on such parties and food should be given to the poor and needy.
- As deputizing is possible in life for payment of debt, or other matters relating to property or wealth, similarly another person may make a payment of debt for a dead person and release him from his obligation.

Chapter 9. Allâh's Saying:
"But if he is poor, let him
have for himself what is just
and reasonable."^[1]

(المعجم ۹) - بَابُ قَوْلِهِ: ﴿وَمَنْ كَانَ
 فَقِيرًا فَلْيَأْكُلْ بِالْمَعْرُوفِ﴾ [النساء: ۶]
 (التحفة ۹)

2718. It was narrated from 'Amr bin Shu'aib, from his father, that his grandfather said: "A man came to the Prophet ﷺ and said: 'I do not have anything and I have no wealth, but I have an orphan (under my care) who has wealth.'" He said: "Eat from the wealth of your orphan, without being extravagant or use it for trade." He (the narrator) said: "And I think he said: 'Do not preserve your wealth using his instead.'" (Hasan)

۲۷۱۸ - حَدَّثَنَا أَحْمَدُ بْنُ الْأَزْهَرِيِّ: حَدَّثَنَا
 رَوْحُ بْنُ عُبَادَةَ: حَدَّثَنَا حُسَيْنُ الْمُعَلَّمُ عَنْ
 عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ قَالَ:
 جَاءَ رَجُلٌ إِلَى النَّبِيِّ ﷺ فَقَالَ: لَا أَجِدُ
 شَيْئًا. وَلَيْسَ لِي مَالٌ. وَلِي يَتِيمٌ لَهُ مَالٌ.
 قَالَ: «كُلْ مِنْ مَالِ يَتِيمِكَ. غَيْرَ مُسْرِفٍ وَلَا
 مُتَأَنِّلٍ مَالًا». قَالَ وَأَحْسِبُهُ قَالَ: «وَلَا تَقْيِي
 مَالَكَ بِمَالِهِ».

تخریج: [إسناده حسن] أخرجه أبو داود، الوصايا، باب ماجاء فيما لولي اليتيم أن ينال من مال اليتيم، ح: ۲۸۷۲ من حديث حسين المعلم به، وصححه ابن خزيمة، وابن الجارود، ح: ۹۵۲، وقال الحافظ في الفتح: ۲۴۱/۸ إسناده قوي.

Comments:

- If the guardian of an orphan is extremely poor and has nothing to use, he is allowed to use the wealth of the orphan, but only for basic necessities without being extravagant.
- Preserving one's wealth means using the wealth of the orphan instead of

[1] An-Nisâ' 4: 6.

using his own wealth for personal gains or needs.

- c. Using wealth of an orphan is permitted for trade upon the condition of giving him his due share of the profit. It is not lawful for a guardian to keep the entire profit, or spend it extravagantly for his personal needs.