Ruling on Renting and Utilizing Masjid Waqf Shops and Resources

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Question

What do the noble scholars and jurists of Islamic law say about the following:

- (1) How much should a Masjid's Waqf shop be rented out for? Can the shop be rented out for less than the customary amount?
 - (2) Can the supervisor himself rent the Waqf shop?
- (3) Can one use the Masjid's motor to sprinkle water in front of his own shop if he will pay the bill for it?
- (4) Can one use the Masjid's water coolers (which are for those who come to pray) to fill his bottles to take home?

بِسِم اللهِ الرَّحْلِي الرَّحِيْمِ الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

- (1) It is permissible to rent out the Waqf shops for 'Ujrat Misl' (the market rate for similar shops is in that area). It is impermissible for the committee to rent out the Waqf shops for less than the market value. If they do so, even then the renter must pay the market value amount every month.
- (2) It is impermissible for the caretaker to rent the Waqf shops himself or rent them out to his father or children. However, if the supervisor pays more than the market rate amount himself or rents it to his father or children for more than the market rate, it is permissible.
- (3) It is impermissible to use the Masjid's motor for personal use, such as sprinkling its water in front of their house or shops, even if he says that he will pay the bill. This is because the supplies of the Masjid are specifically for the Masjid's needs. Using them for anything other than that is impermissible and a sin. The jurist even say that using the lanterns of the Masjid in one's own house is impermissible.
- (4) Filling water bottles with the Masjid's coolers and taking the bottles home is impermissible and a sin. Therefore, it is an

obligation for those who do such to repent and pay compensation for the electricity and water they use.

The Waqf shops must be rented out for the market rate. Thus, it is stated in *Majma' Al-Anhur*:

واعلم أن إجارة الوقف لا تجوز إلا بأجر المثل لو أكثر، ولو آجر الناظر بدون أجر المثل لا تصح الاجارة، ويلزم المستأجر تمام أجر المثل

(Majma' Al-Anhur, Book of Ijarah, vol. 2, p. 370, Publ. Beirut) It is stated in *Bahr Al-Raiq*:

إذا أجربا قل من أجرة المثل فإن كان بنقصان يتغابن الناس فيه فهي صحيحة وليس للمتولي فسيخها وإن كان بنقصان لا يتغابن الناس فيه فهي فاسدة وله أن يؤاجرها إجارة صحيحة إمامن الأول أومن غيره بأجر المثل وبالزيادة على قدر ما يرضى به المستأجر فإن سكن المستأجر الأول وجب أجر المثل بالغاما بلغ وعليه الفتوى وإن كانت الاجارة الأولى بأجرة المثل ثم از داد أجر مثله كان للمتولي أن يفسخ الاجارة ومالم يفسخ كان على المستأجر الأجر المسمى

(Bahr Al-Raiq, Book of Waqf, vol. 5, p. 256, Publ. Dar Al-Kitab Al-'Islami) It is stated in *Bahar-e-Shari'at*:

او قاف کواجر مثل کے ساتھ کرایہ پر دیاجائے یعنی اس حیثیت کے مکان کاجو کرایہ وہاں ہویااس حیثیت کے کھیت کاجولگان اُس جگہ ہواُس سے کم پر دیناجائز نہیں ، بلکہ جس شخص کواو قاف کی آمدنی ملتی ہے ، وہ خو د بھی اگر چاہے کہ کرایہ یالگان کم لے کر دے دول ، تو نہیں دے سکتا ... متولی نے اجر مثل سے کم کرایہ پر اجارہ دیا، تولینے والے کواجر مثل دینا ہو گااور اُجرت کا ذکر نہ کیاجب بھی یہی تھم ہے۔

Translation: The Awqaf (waqf properties) should be rented out for the market price, i.e. renting out a house for less than the customary rent of such houses in that area or renting out farmlands for less than the common value of such farmlands is impermissible. Even if the one who receives the income of the Waqf is willing to give the Waqf for less than the market value, he isn't permitted to. If the Mutawali (the in charge of waqf) rents it out for less than the market value, the renter must pay the market price. The same ruling is if the rent amount wasn't discussed at all. (Bahar-e-Shari'at, vol. 2, p. 589, Publ. Maktaba-tul-Madinah, Karachi)

The supervisor can't rent the Waf shops for himself unless he rents it for more than the market value. It is stated in *Bahr Al-Raiq*:

لو آجرالوقف من نفسه أوسكنه بأجرة المثل لا يجوز و كذا إذا آجره من ابنه أو أبيه أو عبده أو مكاتبه للتهمة إلا بأكثر من أجر المثل

(Bahr Al-Raiq, Chapter of Waqf, vol. 5, p. 254, Publ. Dar Al-Kitab Al-'Islami) It is stated in *Bahar-e-Shari'at*:

و قفی زمین کو متولی خو د اپنے اجارہ میں نہیں لے سکتا کہ خو د مکانِ مو قوف میں رہے اور کر ایہ دے یا کھیت ہوئے اور لگان دے ، البتہ قاضی اس کو اجارہ پر دے ، تو ہو سکتا ہے۔ اور اجر مثل سے زیادہ کر ایہ پر لے ، تو ہو سکتا ہے۔ یو ہیں اپنے باپ یا بیٹے کو بھی کر ایہ پر نہیں دے سکتا ، مگر جب کہ بہ نسبت دو سروں کے ان سے زیادہ کر ایہ لے۔

Translation: A supervisor of a Waqf property cannot rent the land for himself and reside therein and pay the rent, nor can he cultivate the land and pay the price. However, if the Qazi (Islamic judge) rents it to him or he rents it for more than the market value he is allowed to take it. Similarly, he can't rent it out to his father or son, unless he takes more rent from them than he does from others. (Bahar-e-Shari'at, vol. 2, p. 589, Publ. Maktaba-tul-Madinah, Karachi)

Using the Masjid's motor for personal use is impermissible, even if he pays the bill. The jurist even say that using the lanterns of the Masjid in one's own house isn't permitted. It is stated in *Fatawa A'lamgiri*:

متولى المسجد ليس له أن يحمل سراج المسجد إلى بيته وله أن يحمله من البيت إلى المسجد الى المسجد إلى بيته وله أن يحمل سراج المسجد (Fatawa A'lamgiri, Chapter of Waqf, vol. 2, p. 462, Publ. Quetta)

It is stated in Bahar-e-Shari'at:

مسجد کی اشیا، مثلاً: لوٹا، چٹائی وغیرہ کو کسی دوسری غرض میں استعال نہیں کرسکتے، مثلاً: لوٹے میں پانی بھر کر اپنے گھر نہیں لے جاسکتے، اگر چہ بیہ ارادہ ہو کہ بچھر واپس کر جاؤں گا۔ اُس کی چٹائی اپنے گھریاکسی دوسری جگہ بچھانانا جائز ہے۔ یوہیں مسجد کے ڈول، رسی سے اپنے گھر کے لیے پانی بھرنایاکسی جچوٹی سے جچوٹی چیز کو بے موقع اور بے محل استعال کرنانا جائز ہے۔

Translation: The supplies of the masjid, such as pitchers, mats, etc. can't be used for any other purpose. For example, taking the pitcher from the Masjid home, even if it is taken with the intention of return. It is impermissible to lay the rugs of the Masjid in one's own home or any other place. Similarly, pulling water from the well for one's own home using the masjid's bucket and rope, or even

using the smallest of things in the improper place or time, is impermissible. (Bahar-e-Shari'at, vol. 2, setc. 10, p. 561, 562, Publ. Maktaba-tul-Madinah, Karachi)

Khalil-e-Millat, Mufti Muhammad Khalil Khan Qadri Barkati رصةالله (D. 1405 AH/ 1985 CE) was asked if the electricity and other resources of the masjid can be used for general purposes. He مليه answered:

Translation: The masjid's supplies can only be used in the masjid. They can't be used for any other purpose. (Fatawa Khaliliyah, vol. 2, p. 579, Publ. Zia-ul-Quran Publication, Lahore)

The masjid's water can't be taken home. It is stated in *Fatawa Mustafawiyah*:

Translation: If the one who installed the faucet intended it specifically for the Masjid, i.e., for the use of wudu, ghusl, and purification of salah, or the payment for the water is paid from by the masjid, taking the water home is impermissible. (Fatawa Mustafawiyah, Ruling about Masjids, p. 269, Publ. Shabbir Brothers)

It is stated in Wagar-al-Fatawa:

Translation: In the past, there would be سقایه (a type of water heater) in the masjid to heat the water during winter. A fire would be ignited in them and through it the water would then be heated. It is impermissible to take the fire from them. That is why it is also impermissible to take the masjid water home. It can only be used in

the masjid. Therefore, in the enquired situation, the people who take the water home are sinful and they should repent. (Waqar-al-Fatawa, vol. 2, p. 317, Publ. Bazm Waqar-Uddin)

وَاللَّهُ أَعْلَمْ عَزَّوْجَلَّ وَرَسُولُهُ أَعْلَم صَلَّى اللهُ تَعَالَى عَلَيْهِ وَالِهِ وَسَلَّم

(Allah Almighty knows best and His Messenger صَلَّى اللهُ عَلَيْهِ وَ الِهِ وَسَلَّم knows best.)

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