13717 - Rulings on trusts

the question

Can you tell us some of the rulings that have to do with trusts (wadee’ah) or things entrusted to someone’s care?

Detailed answer

Praise be to Allah.

This refers to entrusting something to someone to keep it for you voluntarily.

Wadee’ah in Arabic means leaving a thing (with someone). In sharee’ah it means the property which is left with someone to take care of it for nothing in return.

In order for this action to be valid, the person with whom it is left must be a sane, mature adult, because this means entrusting the thing to him to take care of it.

It is mustahabb for the person who knows himself to be trustworthy and able to take care of the thing to accept the trust, because that will being a great reward, as it says in the hadeeth of the Prophet SAWS (peace and blessings of Allah be upon him): “Allah will help His slave so long as the slave helps his brother.” And because people need this. But if he knows that he is not able to take care of it, then it is makrooh for him to accept this trust.

One of the rules concerning trusts is that if it is destroyed or damaged whilst in the care of the one to whom it has been entrusted, through no negligence on his part, then he is not responsible for replacing it, such as if it is destroyed or damaged along with some of his own property, because it was something entrusted and the one to whom it was entrusted is not responsible for replacing it if he did not overstep the mark. It was narrated in a hadeeth which is da’eef (weak) to some extent that the Prophet (peace and blessings of Allah be upon him) said: “Whoever is entrusted

with something, is not responsible for replacing it.” This was narrated by Ibn Maajah. Al-Daraaqutni narrated a slightly different version: “The one to whom something is entrusted is not responsible for replacing it, except in the case of one who betrays that trust.” According to another version: “The one who is entrusted with something is not obliged to replace it,” because the one who is keeping it is doing so voluntarily.

If he were to be held responsible, people would refuse to accept trusts of this nature, which would cause a lot of harm for people and would not serve their interests.

But the one who oversteps the mark with regard to something that has been entrusted to him, or who is negligent in looking after it, is responsible for replacing it if it is damaged or destroyed, because he has caused the property of another person to be damaged or destroyed.

Another of the rulings concerningtrusts is that the one to whom it has been entrusted has to keep itin a place where things of that nature are usually kept, just as he looks after his own property, because Allah has commanded that trusts should be rendered back, as He says (interpretation of the meaning):

“Verily, Allah commands that you should render back the trusts to those, to whom they are due” [al-Nisaa’ 4:58]

And they can only be rendered back by taking care of them. When the one to whom it is entrusted accepts that trust, he is obliged to take care of it and to do what is expected of him. If the thing entrusted is an animal, then the one to whom it is entrusted has to feed it. If he stops feeding it without being given permission by the owner and it dies, then he is obliged to replace it, because feeding the animal is essential. Along with being responsible for replacing it, he is also guilty of sin for not feeding it or giving it water until it died, because he is obliged to give it food and water as is enjoined by Allah, because its rights are sacred and are protected (by sharee’ah).

It is permissible for the person to whom something has been entrusted to give it to a person who usually takes care of his property, such as his wife, slave, storekeeper or servant. If it gets damaged or destroyed when in the care of one of these people, through no transgression or

negligence on their part, then he is not responsible for replacing it, because he has the right to take care of it himself or to delegate that to his deputy. The same applies if he gives it to a person who takes care of the property of its owner; he is not responsible for replacing it, because this is the custom.