26344 - How to take possession of lands that do not belong to anyone

the question

The tribes in the south of the Kingdom of Saudi Arabia used to control the mountainous lands before the establishment of the municipalities that now control those lands according to the system of the state, and the tribes no longer have any control over them.
The question is:
What is the ruling on taking possession of these lands by reviving them in the manner described in sharee'ah, despite the objections of some members of the tribe to those who tried that? They were formerly partners in those lands, especially before the state took them over, and some of them are able to revive those lands and some are not. Please note that revival of the land should have taken place before 1382 AH according to the system of the Ministry of Justice.Thank you.

Detailed answer

Praise be to Allah.

The correct view is that reviving the land entitles a person to take possession of it at any time, because of the general meaning of the words of the Prophet (peace and blessings of Allaah be upon him): "Whoever revives dead land, it is his." Some of the scholars, such as the Hanafis, stipulate that the permission of the ruler is essential. This is what is known as allocation of land, which the Prophet (peace and blessings of Allaah be upon him) used to do, whereby he would give a piece of a land to a person to make use of it. In this case, whoever revived some land before 1382 AH, it is his, and whoever revived land with the permission of the ruler after 1382 AH, it is his. With regard to those tribes, if they had taken possession of the land by reviving it in the past, then they are more entitled to it because of their previous ownership. But if they did not revive it and it was simply part of their village, then they have the right to prevent anybody else from reviving it if that serves the interests of their village, so they leave it as vacant land for recreational purposes, or leave it for future development. In that case if someone revives it, that will adversely affect them, so they can ask the government to ban anybody from reviving it, even

if the people who want to revive it are from the same tribe. This is in order to ward off harm. But if it will cause no adverse effects and the land is far away from the town, and no one will be affected and the ruler has given permission, then it is permissible for others to take possession of it, and they have no right to object. If they want to have it for themselves, then they have to ask the state for that because they have more right to it and they do not want people who are not of their tribe to live near them. In that case the decision rests with the state.