489220 - Is it permissible for the mother to take some of the wealth of her children who are in her custody?

the question

I am divorced and I have two daughters. I take some of my daughters' maintenance money every month for my medical treatment, because I am sick. With regard to my daughters' food and drink, it is my father who is sponsoring that. What is the ruling on my taking some of my daughters' money every month? Please note that I have no other option except to do that.

Detailed answer

Praise be to Allah.

Firstly:

The basic principle is that the mother who has custody of her children does not have the right to take anything from her children's maintenance money in return for taking care of them; rather she is entrusted with the money that is sent for her children's maintenance and is expected to dispose of it according to what is in their best interests.

Ad-Dardir al-Maliki (may Allah have mercy on him) said: She does not have the right to spend any of her child's maintenance money on herself in return for taking care of the child. End quote from *Bulghat as-Salik li Aqrab al-Masalik* (2/765).

Secondly:

It is permissible for the father and mother to take from their children's wealth for their needs, so long as it does not harm the children.

It was narrated from 'A'ishah, from the Prophet (blessings and peace of Allah be upon him), that

he said: “A man’s son is part of his earnings, among the best of his earnings, so you may take from their wealth.” Narrated by Abu Dawud (3529); classed as sahih by al-Albani.

Ibn al-Amir as-San‘ani (may Allah have mercy on him) said: It is soundly narrated from Abu’z-Zubayr that he heard Jabir ibn ‘Abdillah say: The father and mother may take from their child’s wealth without his permission.

End quote from *Risalah Latifah fi Sharh Hadith Anta wa Maluka li Abik* (p. 24). The report was narrated by Ibn Hazm in *al-Muhalla* with his isnad (6/385).

It was narrated that ‘Aa’ishah said: The Messenger of Allah (blessings and peace of Allah be upon him) said: “Your children are a gift from Allah to you, {He gives to whom He wills female [children], and He gives to whom He wills males} [al-Shoora 42:49]. They and their wealth are yours if you need it.” Narrated by al-Hakim in *al-Mustadrak* (3123), who said: It is sahih according to the conditions of al-Bukhari and Muslim. Also narrated by al-Bayhaqi in *al-Kubra* (15745). Classed as sahih by al-Albani in *as-Silsilah as-Sahihah* (2564). See the commentary of Shu‘ayb al-Arna’ut et al. on *Sunan Ibn Majah*, hadith no. 2137.

As-Sawi (may Allah have mercy on him) said, explaining that it is permissible for the mother to take from her child’s wealth, if she is in difficulty, and she does not regard it as being in return for looking after the child:

She does not have the right to spend on herself in return for looking after the child.

But if it is for another reason – meaning that she takes it for a reason other than looking after the child – and is in difficulty, then she may spend on herself from the child’s wealth, whether what she takes is less than the going rate for looking after the child or more than that, because she is entitled to maintenance even if she does not look after the child.

End quote from *Hashiyat as-Sawi ‘ala ash-Sharh as-Saghir* (2/765).

Shaykh Salih al-Fawzan (may Allah preserve him) said: The father has the right to take from his child’s wealth so long as it will not harm the child or take what the child needs, because the

Prophet (blessings and peace of Allah be upon him) said: “The best of what you consume is your earnings, and your children are among your earnings.” And he said: “You and your wealth belong to your father.” This undoubtedly refers to the father’s rights, but it also includes the mother’s rights, because she is like the father according to the correct view. So she may take from her child’s wealth that which will benefit her and meet her needs, so long as that will not be detrimental to the child and what she takes is not needed by him.

End quote from *al-Muntaqa min Fatawa al-Fawzan*.

Based on the above:

It is permissible for you to take from your children’s wealth to pay for medical treatment, on condition that that will not harm the children. In other words, that should only be after ensuring that the children have enough.

And Allah knows best.