102609 - Ruling on selling water

the question

Is it permissible to sell water ?.

Detailed answer

Praise be to Allah.

With regard to selling water, one of two scenarios must apply:

1 -- The water is in a public well or river that does not belong to anyone. This it is not permissible to sell, because of the report narrated by Abu Dawood (3477), that the Prophet (peace and blessings of Allaah be upon him) said: “The Muslims are partners in three things: herbage, water and fire.” Classed as saheeh by al-Haafiz in al-Talkhees.

It says in ‘Awn al-Ma’bood: What is meant is the water that is not acquired by the efforts of anyone, such as spring water, and it is not collected in vessels or tanks, or taken away by means of a channel. Herbage refers to plants both fresh and dry.

Al-Khattaabi said: What is meant is herbage that grows on disused land where people let their animals graze, and that does not belong exclusively to anyone. If herbage grows on land that belongs to a specific owner then it is his property and no one has the right to share in it except with his permission. End quote.

Al-Sindi said: Some people followed the apparent meaning and said that these three things cannot be owned and that it is not valid to sell them at all. But the well known scholarly view is that what is meant by herbage is permissible herbage that does not belong to anyone; what is meant by water is water that falls from the sky or comes from springs and rivers that are not usually owned by anyone; and what is meant by fire is the trees that people chop down from permissible sources and use for fuel. If someone puts water in vessels or acquires possession of it, it is permissible to

sell it, and the same applies to other things. End quote.

2 – Where the water is in the possession of an individual, and he is the one who extracted it and acquired it. This it is permissible to sell.

Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him) said in al-Sharh al-Mumti’ (8/140): But if he owns it and acquires it and extracts it and puts it in the tank, then it is permissible to sell it, because it has become his property by means of acquisition. End quote.

Shaykh al-Fawzaan (may Allaah preserve him) was asked: Is it permissible to sell water, and when?

He replied: That depends. If he acquires the water in his vessel or tank, then he owns it and it is permissible for him to sell it, because he acquired it and took control of it and went to the effort of acquiring it, so it becomes his property.

But if the water is still in the well or river or in the channel that flows through his property, then there is a difference of opinion among the scholars. The correct view is that it is not permissible for him to sell it, rather he has more right to benefit from it than others, but he does not have the right to prevent others from benefiting from it if that does not harm him or his property, because the Prophet (peace and blessings of Allaah be upon him) forbade selling surplus water. End quote.

Al-Muntaqa (3/13).