144721 - She has both male and female children; who spend on her?

the question

I have six sisters and five brothers. Our father is deceased and he left us an inheritance in the form of a building that is rented out. When we asked for a share of the rental income, our oldest brother got angry and refused to give that to us, so we referred the matter to the court, which confirmed our right to our share of the rental income. At that point he stopped spending on our mother, because he was angry at what we had done and he argued that we had no right to take our share, and he said that we were now obliged to spend on our mother. Please note that we [sisters] are married and do not work. Even when [our mother] went into hospital, he refused to pay her medical costs. I hope that you can explain the following:
Who is obliged to spend on the parents?
Does he have the right to prevent us from taking our share of the rental income on the grounds that he is spending on our mother?
Does he have the right to stop spending on her when he is able to do so? Please note that she needs this maintenance.

Detailed answer

Praise be to Allah.

Firstly:

The inheritance is to be divided as commanded by Allah, may He be exalted, and it is essential to avoid overstepping the mark in that regard. After mentioning inheritance, Allah says (interpretation of the meaning):

“These are the limits (set by) Allaah (or ordainments as regards laws of inheritance), and whosoever obeys Allaah and His Messenger (Muhammad صلى الله عليه وسلم) will be admitted to Gardens under which rivers flow (in Paradise), to abide therein, and that will be the great success.

14. And whosoever disobeys Allaah and His Messenger (Muhammad صلى الله عليه وسلم), and transgresses His limits, He will cast him into the Fire, to abide therein; and he shall have a disgraceful torment”

[al-Nisa’ 4:13, 14].

So your brother does not have the right to keep the rental income from the building and deprive the rest of the heirs of that.

Secondly:

The duty of spending on parents who are poor is that of their children, male or female, if they are independent of means and have wealth surplus to what they require for their own maintenance and that of their dependents, because Allah says (interpretation of the meaning):

“And your Lord has decreed that you worship none but Him. And that you be dutiful to your parents”

[al-Isra’ 17:23].

A man asked the Prophet (blessings and peace of Allah be upon him): Which of the people is most deserving of my good companionship? He said: “Your mother.” He said: Then who? He said: “Then your mother.” He said: Then who? He said: “Then your mother.” He said: Then who? He said: “Then your father.” Narrated by al-Bukhaari (5971) and Muslim (2548).

It was narrated from ‘Aa’ishah (may Allah be pleased with her) that the Prophet (blessings and peace of Allah be upon him) said: “Among the best of that which a man consumes is what he earns (by his own efforts), and his son is part of that which he earns.” Narrated by Abu Dawood (3528) and classed as saheeh by al-Albaani in Saheeh Abi
Dawood.

Ibn al-Mundhir (may Allah have mercy on him) said: The scholars are unanimously agreed that maintenance of poor parents who have no income or wealth should be spent on from the wealth of

their child. End quote from al-Mughni, 8/169

Based on that, your mother's maintenance should come from her share of the rental income, which is one eighth, and she has the right to sell her share to one of the heirs or anyone else, and to spend on herself from that income.

If that is not sufficient for her maintenance, it should be topped up from the wealth of her children who are independent of means, whether they are males or females. If a married woman gets enough maintenance from her husband and she has surplus wealth – even if it comes from the rent for the building – she has to spend on her mother.

Shaykh Ibn Jibreen (may Allah have mercy on him) said: If the parents are poor and the daughter has wealth that is surplus to her needs, she has to spend on her parents according to their needs without that detracting from her own needs. End quote.

The maintenance should be in accordance with the shares of inheritance, because of the general meaning of the verse in which Allah says (interpretation of the meaning): "And on the (father's) heir is incumbent the like of that (which was incumbent on the father)." [al-Baqarah 2:233]. And the share taken from the male should be equivalent to the share taken from two females.

Your brother does not have the right to keep the rental income on the grounds that it has to be spent on (your mother's) maintenance; rather he should give each heir his or her share and all the children should reach an agreement to pay enough to cover their mother's maintenance. No matter how much that may be, it is nothing compared to the rights that she has over you.

Al-Bukhaari narrated in al-Adab al-Mufrad (918) from Abu Burdah that Ibn 'Umar (may Allah be pleased with him) saw a Yemeni man circumambulating the Ka'bah, carrying his mother on his back. He said: I am her trained camel; do you think I have paid her back? Ibn 'Umar said: No, not even one contraction.

Classed as saheeh ibn al-Albaani in Saheeh al-Adab al-Mufrad.

So fear Allah and set things straight amongst yourselves; remember that Allah is always watching

how you treat your mother, who is the most deserving of people of your good company and care.

We ask Allah to help and guide us and you.

And Allah knows best.