197651 - What should he do about his paternal uncle who unlawfully took his house that he inherited from his father, and he cannot do anything about it?

the question

My father had full ownership of an expensive house in Pakistan. About 10 years ago, when I was 10 years old, he had passed away, and I have been raised by a single mother. Our financial conditions are worsening as my education needs are growing. However, my fathers brother had taken the house unlawfully and has been living in there since my father's death. Whenever my mother would ask for our house back, he would threaten to humiliate her and destroy her. Since I had moved to Canada right after my father's death, I'm not familiar with the laws and authorities in Pakistan, and since Pakistan is failing to govern itself, it has poor controls of policing and other enforcement agencies. Also, since my uncle is a very dangerous person, I am afraid of what he would do if I go there and try to take my property back. My question is that, in such dangerous circumstances, am I still obliged to take my rightful property? And if yes, are there any suggestions on how I should go about doing so?

Detailed answer

Firstly:

What your uncle has done with this act of transgression – if what you say is true – is a grave major sin. The inheritance must be given after the death of the deceased to the legitimate heirs without any wrongdoing or transgression. Allah, may He be exalted, said after mentioning the shares of inheritance in His Book and after giving each one who is entitled to a share his rightful share (interpretation of the meaning):

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

And whosoever disobeys Allah and His Messenger (Muhammad SAW), and transgresses His limits, He will cast him into the Fire, to abide therein; and he shall have a disgraceful torment."

[an-Nisa' 4:13, 14].

What is meant is: these details about shares of inheritance are the limits set by Allah, which must be adhered to and not transgressed.

Tafseer as-Sa'di, p. 170.

Your uncle has no right to the inheritance at all, because he is blocked from inheriting by you. Brothers and sisters do not inherit anything when there is a child of the deceased.

Undoubtedly the right to the house is yours, and it is within your rights to try to get possession of it by all possible means.

But if the situation is as described, that the government's authority in such cases is weak and you have little support or help, and you think it most likely that your uncle is dangerous and that he will never give you your house except with a great deal of trouble or he will harm you or your mother, or the like, then you do not have to try to get it back when the situation is as described. Rather you should be patient in the hope that Allah will give you relief and a way out, or until you gain the power to kick him out by the help of Allah. Do not expose yourself to trouble that you cannot bear; rather delegate the matter to trustworthy lawyers you can trust to help you by legal means. If that is not possible and you give up your rights for fear of further harm, there is no blame on you and you do not have to try to take it back at all.

Imam Muslim narrated in his Saheeh (201) that Abu Hurayrah (may Allah be pleased with him) said: A man came to the Messenger of Allah (blessings and peace of Allah be upon him) and said: O Messenger of Allah, what do you think if a man comes and wants to take my wealth? He said: "Do not give him your wealth!" He said: What if he fights me? He said: "Fight him back." He said: What if he kills me? He said: "Then you will be a martyr." He said: What if I kill him? He said: "He will be in Hell."

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said:

This is what the fuqaha' call an assailant, who is a wrongdoer with no justification for his wrongdoing. If what he wants is the wealth, it is permissible to ward him off by any possible means. If he cannot be warded off except by fighting, then he should be fought, but if one does not want to fight and gives up some of the wealth, that is permissible. But if what he wants is to commit an immoral action – such as if he wants to commit zina with a man's mahram, or he wants to commit indecent acts with a woman or a slave and the like – then it is obligatory to protect oneself by any possible means, even by fighting, and it is not permissible to allow him to do that under any circumstances. This is different from wealth, which it is permissible to let him take, because allowing him to take wealth is permissible but allowing him to commit indecent acts with oneself or one's mahrams is not permissible.

End quote from as-Siyaasah ash-Shar'iyyah, 71.

Imam an-Nawawi (may Allah have mercy on him) said: Protecting wealth is permissible but not obligatory. With regard to the words of the Prophet (blessings and peace of Allah be upon him), "Do not give it to him," what is meant is: you do not have to give it to him; it does not mean that it is haraam to give it to him.

End quote from Sharh Muslim by an-Nawawi, 11/202

If you lose any of your rights and are not able to get them in this world, then you have an issue to settle with the one who has wronged you, and that will benefit you, in sha Allah, on the Day when there will be neither dirhams nor dinars (i.e., no money or wealth), and there will only be good deeds and bad deeds.

Al-Bukhaari (2449) narrated that Abu Hurayrah (may Allah be pleased with him) said: The Messenger of Allah (blessings and peace of Allah be upon him) said: "Whoever has wronged his brother with regard to his honour or anything else, let him seek his forgiveness today, before there will be no dinar and no dirham, and if he has any good deeds to his credit they will be taken from him in a manner commensurate with the wrong he did, and if he has no good deeds, then some of his counterpart's bad deeds will be taken and added to his burden."

See also the answer to question no. 92650, in which there is a discussion on referring for judgement to man-made laws, which is permissible in order to get back one's rights in cases of necessity.

See also the answers to questions no. 127188 and 149659.

And Allah knows best.