



Is Muzara'a (Share cropping) lawful from Qur'anic Perspective?

Farooq Aziz*

Department of Business Administration, Federal Urdu University

Noor Muhammad Jamali*

Assistant Professor, Institute of Commerce, University of Sindh

ABSTRACT

Muzara'a is basically a form of partnership for cultivation of land, between landlord and agricultural labour. It may take different forms depends upon the terms and conditions set by fuqahas. From the very beginning in Islamic economic literature, its validity is a controversial issue. The discussion in this regard is clearly divided in two schools of thoughts, one which is recognized it and the other consider it as unlawful. The axis of reasoning in this regard is almost based on Hadith, form which both schools got the material for their claim.

The building of muzara'a is based on the concept of private ownership of land, which is antecedent and the agreement of muzara'a is posterior. It is assumed that, both Qur'an and Hadith admit the concept of private ownership of land. Even the opponents of this act never raised any question in this context. Their main claim is based on some Hadith in which the act of muzara'a is being prohibited.

The real fact is that, Qur'an does not recognized the concept of private ownership of land. And the same situation in with Hadith. Chronological order review of related Hadith, can proved this fact, which is one of the basic criteria of judgment of Hadith set by fuqahas. Since discussion on Hadith in this context is quite lengthy and cannot be covered in a paper, hence all attention is concentrated on Qur'an. In this paper effort is being made to point out that, Qur'an does not acknowledge this concept and the arguments given in this regard from Qur'an are just based on deceptions. Negations of this concept automatically demolish the building of muzara'a. Hence at least from Qur'an legality of muzara'a cannot be proved.

Keywords: Muzara'a, Qur'an, Hadith, Verses.

1. INTRODUCTION

Since very early times two basic questions have occupied an important position in Islamic economic literature. The first question is, whether land is individually or collectively owned? And the second question which ultimately depends upon the validity of first one is, whether agricultural land can be leased against a specified rent and recompense, or

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*Dr. Farooq Aziz : drfaziz@yahoo.com

Dr. Noor Muhammad Jamali : noormuhammadjamali@hotmail.com

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Main Ibrahim Hydri Road, Korangi Creek, Karachi-75190, Pakistan.

against a fixed sum of money or part the produce of land? In the other words, in terms of Sharia'a transaction of muzara'a is lawful or not?

In muzara'a owner of the land provides his land and the agricultural labour (ajir or aamil or tenant or cultivator) worked on it and the agricultural production is divided between them in a pre decided ratio (Malik, 1935, pp.26). This partnership agreement may be in different forms, depending upon the terms and conditions set by Fuqahas (Siddiqui, 1968, pp.185-186). The common point in all of its form is that, landlord must have a share in agricultural production. This share may be different in different types of agreements (Haque, 1977, pp.9).

Whereas the question of its validity is concerned, it is a quite longstanding and controversial issue between Muslim thinkers. The opinion about it is clearly divided in two schools of thoughts. In the opinion of one school it is absolutely invalid in Islamic law. The most prominent in this context is Iraqi jurist Abu Hanifa (d 150/767-8) and the Syrian Abd al Rehman Al Awza'i (d. 157/773-4). On the other hand a big majority of the Fuqahas hold the point of view that, muzara'a is legal and permissible (Seuharvi, 1984, pp. 231-238).

Analysis of arguments which are given in favour and against of this act clearly shows that, base of reasoning is more or less Hadith material (Taseen, pp. 83-121). Both schools found arguments for their claim from same source.

At here interesting point is that, the literary difference between these two schools is on the act of muzara'a or the nature of transaction. There is no difference of opinion on the concept of private ownership of land. Both schools did not challenge it, it is considered as a recognized fact. Even the opponents also admit it (Taseen, pp. 18-29).

But actually this is the point, which required reconsideration. The real fact is that, at least Qur'an does not recognized this concept. All arguments, which are given from this book are just based upon delusion. The same situation is with Hadith, if all Hadith on this subject are analysed in chronological order, which is a well recognized principle of testing Hadith, then it can be easily proved that, before the order of prohibition of riba (interest) this concept was lawful. But after this order it was prohibited by Prophet, Muhammad (P.B.U.H). But since the rebuttal of the concept of private ownership of land from Hadith require's a lengthy discussion, which is beyond the limit of a paper, hence it is ignored and just focused on the Qur'anic teachings in this regard (Aziz, 2004, pp. 185-212).

The second part of this paper consist of critical review of arguments given from Qur'an in favour of private ownership of land, and it is proved that Qur'an openly recognize the tenant as the owner of agricultural production, hence there is no concept of landlord from Qur'anic point of view.

Third part provides some further reasons in this regard. Fourth part deals with the real base of ownership of assets from Qur'anic point of view, whereas the sixth part has its conclusion.

2. REVOCATION OF THE CONCEPT OF PRIVATE OWNERSHIP OF LAND FROM QUR'AN.

In Order to prove this claim, analysis of all those Qur'anic verses is necessary which are presented in this regard. Actually these are two types of verses. First type of verses are those, in which private ownership of houses, agricultural products (crops) and gardens are admitted by Qur'an, e.g chapter 24 verse 27, chapter 43 verse 33, chapter 2 verse 267 chapter 6 verse 141, chapter 68 verse 22 and chapter 18 verse 32, 35 and 40. And the second type of verses are those, in which rules of rise and fall of nations are described e.g chapter 6 verse 128 and chapter 33 verse 27.

2.1 Rebuttal Of Arguments Given From First Type Of Verses

Whereas the first type of verses are concerned, argument is given that, since ownership of houses, crops and gardens are being admitted by Qur'an, and all of these things are

situated on earth, hence private ownership of land is possible. This is the most basic argument and given by almost all thinkers e.g. Maulana Maududi (1969). M.N. Siddiqui (1986), M. Taseen (nd), and Taqi Usmani (nd) etc.

This is the basic deception is the regard. This premises is entirely wrong, because Qur'an has definitely accepted the ownership of these items, but not the ownership of that particular land on which these things are situated. The simple evidence of this claim, are those Qur'anic words, which are used in this context, i.e. for the ownership of these items.

Private ownership of houses is recognized at two places in Qur'an. Qur'anic words in this context are:-

Chapter 24 verse 27	(Our houses)
Chapter 43 verse 33	(Their houses)

These words simply indicating that, ownership is just of houses, not for the land on which these houses are constructed. If the reason of supporters of private ownership of land is being admitted that, the land on which a house is situated will also be considered in private ownership. Then on this basis, any one, at any where, can claim the ownership of land by constructing a house on it. And if this reason is expanded, then, on this ground, owner of any asset (because house is an asset) can claim any part of land by putting his asset on that part of land, e.g. a car owner can claim that, the land on which his car is parked, it is in his ownership. But is it logically acceptable? Definitely it cannot be acknowledged on any ground.

The same situation is with crops and gardens. On the basis of above arguments, no one can claim the ownership of that part of land which is cultivated by him or by making a garden on it. This is the reason that, Qur'an has just recognized the ownership of these items, but not the piece of land on which these items are cultivated.

The verses in which the subject of ownership of crops (not the land) is came, and which are presented in favour of private ownership of land, their particulars words about this subject are:-

Translation

O Believers! expand in Allah's way the best portion of the wealth you have earned and of that, We have produced for you from the earth. (Chapter 2, verse 267)

Translation

When they bear fruit, and give away Allah's due at the harvest time. (Chapter 6, verse 141)

Translation

Saying, Go forth early to your tilth (crop) if you would pluck fruit. (Chapter 68, verse 22)
Important point is that, in all of these verses Qur'an is admitting the ownership of crops

not the land from which these are obtained. In the first two verses the order is given to cultivator to donate some part of crops. This order openly negates the concept of private ownership of land. Because the order of donation for a particular item can be given to that person, who is the owner of that thing. Here order is given to tenant, which clearly shows that, cultivator is the owner of crops, not the so-called owner of land or land lord. The third verse quite soundly declaring this fact by saying the words: (your crops). These words left no stone unturned that, tenant is the only owner of all those products which he has obtained from the land. This is the solid Qur'anic evidence, definitely no more proof is required after that (Aziz, 2004, pp. 175-184).

The situation is also quite same in the context of gardens. In Surrah Al-Kahaf (Chapter 18) three times ownership of gardens is admitted by Qur'an by saying that:-

Translation

We have given two gardens to one of them. (Verse 32)

Translation

In my garden (Verse 35)

Translation

In your garden (Verse 40)

These words clearly indicating that, ownership of only gardens is being acknowledge, not the land on which these gardens are situated. This situation is quite same as to houses and crops. Gardener is considered as the owner of garden, not anyone else.

2.2 Second Type of Verses

Whereas the second type of verses are concerned, which are presented in this perspective, in these verses rules of rise & falls of nations are described. From these verses conclusion is being drawn that, Allah is the owner of land, and with His own will He makes heir (owner) one nation to another on a particular piece of land.

This deduction is baseless, because these verses are describing the mechanism of rise and fall of nations. Subject of private ownership of land is not the context of these verses.

On this basis it can be said that, arguments from Qur'an in favour of ownership of land do not have any logical base, and are completely based on fallacies.

3. SOME FURTHER ARGUMENTS

To deny the concept of private ownership of land from Qur'an some further reasons are as follows:

3.1 Qur'an has given extra ordinary emphasis on donation of wealth, even order is given to donate each and every thing beyond the requirements, (Chapter 2 Verse 219). But why there is not a single verse in Qur'an about the donation of extra land?

3.2 In the same line, Qur'an has severely contented the act of parsimony and gives the news of sever punishment to misers, (Chapter 7, verse 128). But again, why there is not a single word for those who captured huge pieces of land?

The answer of both of these questions is quite simple. There is not any concept of private

ownership of land, hence there is not any question of its donation or parsimony of land will arise.

4. BASE OF PRIVATE OWNERSHIP-QUR'ANIC CONCEPT

At here a question may arise that, when Qur'an categorically acknowledge the institution of private ownership, then on what grounds land has an exception? Its answer is that, analysis of all those items whose private ownership is accepted by Qur'an shows that, only those items are given in private hands which are the result of human labour e.g. ships, gold, silver, crops, gardens, houses and all other assets. Since land is not the result of human labour, hence its private ownership is not recognized. Allah is the only owner of it, (Chapter 7, verse 128). This is the reason that, according to *Qur'an* right to get benefit from the earth is quite open and unconditional for all human being e.g. Chapter 2, verse 22, Chapter 6 verse 10, Chapter 79, verses 30-33, Chapter 80 verses 32-35 and particularly chapter 41, verse 10 and Chapter 55, verse 10.

5. CONCLUSION

On the basis of above reasoning, it can be conclude that, Qur'an recognized the institution of private ownership. But this right is conditional and restricted to those items which are the result of human labour. Since no human labour is involved in land, hence its private ownership is not possible. Arguments which are given in this regard are based on deception. The basic confusion is that, Qur'an just recognized the ownership of those items which are the result of human labour, but since all these items are directly related to land, hence it is assumed that, Qur'an has given land in private ownership also. But it is not so. Qur'an has openly recognized the agricultural labour as the owner of agricultural production. Hence there is not any concept of land lord, and absence of land lord means complete collapse of concept of Muzara'a.

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