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Eiruv Daf 32

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**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**  
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Mav the studing of the Daf Notes be a zechus for their neshamot and mav their souls find peace in Gan Eden and be bound up in the Bond of life

Others there are who read: Rav Nachman said: From where do I derive this? Since the reason stated was, ‘Because it is known that Beis din would not shirk their duty’, [it follows that] it is only Beis din who do not shirk their duty but that an ordinary agent might. And Rav Sheishes? — He can answer you: Beis din [are presumed to have carried out their duty] by mid-day, while an ordinary agent [is presumed to have done his before] all the day [has passed].

Said Rav Sheishes: From where do I derive this? From what was taught: A woman who is under the obligation [of bringing an offering in connection with] a birth or zivah brings [the required sum of] money which she puts into the collecting box, immerses and is permitted to eat consecrated food in the evening. Now what is the reason? Is it not because we hold that it is a legal presumption that an agent carries out his mission? And Rav Nachman? — There [the presumption may be justified] in agreement with the view of Rav Shemayah. For Rav Shemayah laid down: There is a legal presumption that no Beis din of Kohanim who would rise from their session before all the money in the collecting box had been spent.

Rav Sheishes again said: From where do I derive this? From what was taught: If a man said to another, ‘Go out and gather for yourself some figs from my fig tree’, the latter may eat of them in a casual manner or he must tithe them [as produce that is] known [to be untithed]. [If however, the owner said to him,] ‘Fill yourself this basket with figs from my tree’ [the latter] may eat them in a casual manner or must tithe them as demai. This applies only to [an owner who was] an ignorant person, but if he was a chaver, [the latter] may eat [the fruit] and need not tithe them; these are the words of Rebbe. Rabban Shimon ben Gamliel, however, ruled: This applies

only to [an owner] an ignorant person, but if he was a chaver, [the latter] must not eat [the figs] before he has tithed them, because chaverim are not suspected of giving terumah from [produce] that is not in close proximity [to the produce for which it is given]. My view, remarked Rebbe, seems [to be more acceptable] than that of my father, since it is preferable that chaverim should be suspected of giving terumah from [produce] that is not in close proximity [with that for which it is given] than that they should give ignorant people to eat all sorts of tevel. Now, their dispute extends only so far that while one Master maintains that they are not suspected, but both [agree that there is] legal presumption that an agent carries out his mission. And Rav Nachman? — There [the presumption is justified] in agreement [with the principle] of Rav Chanina Choza'ah. For Rav Chanina Choza'ah laid down: It is a legal presumption that a chaver would not allow any unprepared thing to pass out of his hand. (32a)

The Master said: ‘This applies only to [an owner who was] an ignorant person, but if he was a chaver, the latter] may eat [the fruit] and need not tithe them; these are the words of Rebbe’. To whom could this ignorant person have been speaking? If it be suggested that he was speaking to an ignorant person like himself, [what sense is there in the ruling,] ‘Must tithe them, as demai’? Would he obey it? Consequently it must be a case where an ignorant person was speaking to a chaver. Now, then, read the final clause: ‘My view seems [to be more acceptable] than that of my father, since it is preferable that Chaverim should be suspected of giving terumah from [produce] that is not in close proximity [with that for which it is given] than that they should give ignorant people to eat all sorts of tevel’; how does the question of ignorant people at all arise? — Ravina replied: The first clause deals with an ignorant person who was

speaking to a chaver, and the final clause deals with a chaver who was speaking to an ignorant person while another chaver was listening to the conversation. Rebbe is of the opinion that that a chaver may eat [the fruit] and need not tithe it because it is certain that the first chaver had duly given the tithe for it, while Rabban Shimon ben Gamliel ruled that he must not eat [the fruit] before he tithed it because chaveirim are not suspected of giving terumah from [produce] that is not in close proximity [to that for which it is given]. Thereupon Rebbe said to him, 'It is preferable that chaveirim should be suspected of giving terumah from [produce] that is not in close proximity [with that for which it is given] than that they should give ignorant people to eat all sorts of tevel'.

On what principle do they differ? — Rebbe holds that a chaver is satisfied to commit a minor ritual offence in order that an ignorant person should not commit a major one, while Rabban Shimon ben Gamliel holds that a chaver prefers the ignorant person to commit a major ritual offence rather than that he should commit even a minor one. (32a – 32b)

**MISHNAH:** If he deposited it on a tree above [a height] of ten Tefachim, his eiruv is ineffective; [if he deposited it at an altitude] below ten tefachim his eiruv is effective. If he deposited it in a cistern, even if it is a hundred amos deep, his eiruv is effective. (32b)

**GEMARA:** Rabbi Chiya bar Abba and Rabbi Assi and Rava bar Nassan sat at their studies while Rav Nachman was sitting beside them, and in the course of their session they discussed the following. Where could that tree have been standing? If it be suggested that it stood in a private domain, what matters it [it may be objected] whether it was above [a height] of ten tefachim or below it, seeing that a private domain rises up to the sky? If, however, [it be suggested] that it stood in a public domain [the question arises] where did the man intend to make his Shabbos abode? If it be suggested that he intended to make it on, [the tree] above, are not then he and his eiruv in the same domain? — [The fact,] however, [is that] he intended to make his Shabbos abode below. But is he not making use of the tree? — It may still be maintained that [the tree] stood in a public domain and that the man's

intention was to acquire his Shabbos abode below, but [this Mishnah] represents the view of Rebbe who land down: Any act that is forbidden by a Rabbinical measure is not subject to that prohibition during twilight. 'Well spoken!' said Rav Nachman to them, 'and so also did Shmuel say'. 'Do you explain with it', they said to him, 'so much?' But did not they themselves explain [their difficulty] thereby? — In fact it was this that they said to him: 'Did you embody it in the Gemara? — 'Yes', he answered them — So it was also stated: Rav Nachman reporting Shmuel said: Here we are dealing with a tree that stood in a public domain, that was ten tefachim high and four tefachim wide, and the man had the intention to acquire his Shabbos abode below. This, furthermore, is the view of Rebbe who land down: Any act that is forbidden by a Rabbinical measure is not subject to that prohibition during twilight.

Rava stated: This was taught only in respect of a tree that stood beyond the outskirts of the town, but where a tree stood within the outskirts of the town an eiruv is effective even [if it was deposited] above [a height] of ten tefachim, since a town is deemed to be full. If so, the same [law should apply to an eiruv on a tree] beyond the outskirts of a town, for since Rava ruled: 'A man who deposited his eiruv [in any spot] acquires [an abode of] four amos,' that spot is a private domain which rises up to the sky? — Rav Yitzchak the son of Rav Mesharsheya replied: Here we are dealing with a tree whose branches bent over beyond the four amos while the man intended to acquire his Shabbos abode at its root; and what [is the explanation for the use of the expressions,] 'above' and 'below'? That [the branch] rises again into a vertical position. - But couldn't the man, if he so wished, bring [the eiruv] by way of the upper part of the tree? — [This is a case] where many people adjust their burdens on it, and [this ruling is] in agreement with that of Ulla who laid down: If a column, nine tefachim high, was situated in a public domain and many people were adjusting their burdens on it, any man who throws an object that comes to rest upon It is guilty. (32b – 33a)