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Eiruv Daf 33

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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Tzvi Gershon Ben Yoel (Harvey Felsen) o”h

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The Gemora asks: And what is the explanation for [the use of the expressions] ‘above’ and ‘below’ (in the Mishna)? [Such terms are applicable to an eiruv on a tree that stands upright, but not to one on a branch, projecting horizontally. In the latter case, the expressions, ‘higher’ and ‘lower’ (than ten tefachim from the ground) would be expected.]

The Gemora answers: The branch (at first projects horizontally at an attitude below ten tefachim; then it) rises again into a vertical position. [‘Above’ and ‘below’ is in reference to the location of the eiruv on the vertical portion of the branch, since part of the branch is below ten tefachim, and part of it is above ten tefachim.]

The Gemora asks: But couldn’t the man (even where the eiruv lay at a height of ten tefachim, and beyond four amos of the base, where he intended to acquire his place of residence), if he so wished, bring the eiruv (from the branch to a spot, higher than ten tefachim, above the base of the tree) over the branch of the tree? [He may climb to the upper part of the tree, which, being above an attitude of ten tefachim, is a private domain, through which it is permitted to carry from the private domain in which the eiruv lay to himself.]

The Gemora answers: This is a case where many people adjust their burdens on the branch. [The branch that was beyond the four amos and was lower than ten tefachim; which, in consequence, assumes the status of a public domain. It is impossible, therefore, to carry the eiruv from the upright portion of the branch, which is a private

domain to himself, since the only way possible way to carry it is above the branch, which means through a public domain, and it is forbidden to carry from one private domain into another private domain via a public domain.] And this ruling is in agreement with that of Ulla, for Ulla said: If there is a pillar nine (tefachim high) in the public domain, and the public rest and rearrange their burdens on it, and one throws (an object) and it lands upon it, he is liable. [If it is less than three (tefachim high), the public step upon it (and it is part of the public domain); from three to nine, they neither walk upon it nor arrange their burdens upon it (therefore, it is a karmelis when it is four tefachim wide, or a place of exemption when it is less than four); if it is nine tefachim high (and, according to Rashi, exactly nine), they certainly rearrange their burdens upon it (and it is part of the public domain).]

The Gemora asks: What is the source of the dispute between Rebbe and the Rabbis (regarding if Rabbinical decrees apply during twilight or not)?

The Gemora answers: It was taught in a braisa (the identical case of the Mishna): If he (wishing to make his residence at the base of the tree) deposited it (his eiruv) on a tree above a height of ten tefachim, his eiruv is ineffective; if, however, he deposited it below ten tefachim, his eiruv is effective (for during twilight, the eiruv was accessible to him, for at that time, there is no Rabbinical prohibition against using trees), but it is prohibited to move it (for he cannot use the tree on Shabbos). If the eiruv was deposited (on the tree) within three (tefachim from the ground), it is permitted to move

it (on Shabbos, because a height of less than three tefachim is regarded as the ground itself, and it is not considered as if he is using the trees). If he put it in a basket and suspended it from the tree, his eiruv is effective - even if it was above a height of ten tefachim; these are the words of Rebbe. But the Sages said: Wherever it is forbidden to take it (on Shabbos), the eiruv is ineffective.

The Gemora explains: "But the Sages said" - Now to what does it refer? If you say that it refers to the final clause (where Rebbe ruled that an eiruv in a basket suspended from a tree is effective, and the Sages objected that, since on the Shabbos, the eiruv may not be taken, on account of the Rabbinical prohibition against the use of a tree, then - as a preventive measure, it must not be moved, even at twilight when the eiruv should come into force, and the eiruv is consequently ineffective); the difficulty would arise: Does this imply that the Rabbis hold the opinion that the use of the sides (of a tree) is also forbidden? [This is a matter disputed in a Gemora elsewhere, and it should have been decided based upon the majority opinion of our braisa!?] Rather, it must refer to the first clause. [There, Rebbe stated that an eiruv on a tree below the height of ten tefachim is effective, though it may not be moved on the Shabbos. To this the Sages objected that although his residence and the eiruv were in the public domain, since the eiruv may not be taken on the Shabbos, on account of the prohibition against the use of the tree, it may not be moved at twilight either, and the eiruv is, therefore, invalid.]

The Gemora asks: But then, what is the size of the tree (discussed in the braisa)? If it is one which is less than four (tefachim in width), then surely, it is a place of exemption (so that it would be permitted, even in Rabbinic law, to take the eiruv from the tree into the public domain below; why then should the eiruv be ineffective even where it lay at a height above ten tefachim)? And if it was four (tefachim wide), what is the advantage that the eiruv was placed in a basket (since

that part of the tree is regarded as a private domain - the basket is the same as well, and it would be Biblically prohibited to take the food from the basket into the public domain below)?

Ravina replied: The first clause refers to a case where the tree had a width of four tefachim (and since the tree is regarded as a private domain, the eiruv on it could not be taken to his residence in the public domain; therefore, the eiruv is ineffective), while the final clause deals with one whose width was less than four tefachim (and therefore, it is not classified as a private domain), but the basket supplemented it to four (tefachim), and Rebbe adopts the same view as that of Rabbi Meir and also the same as that of Rabbi Yehudah. He adopts the same view as that of Rabbi Meir who is of the opinion that we (imaginarily) carve it out to complete it (whatever the prescribed measurements are; therefore, it is permissible to add the width of the basket to that of the tree to impart to the latter the status of a private domain; it is not regarded, however, as a private domain in all respects since the prescribed width does not extend below the basket where the width of the tree is less than four tefachim), and he also adopts the same view as that of Rabbi Yehudah who ruled that it is necessary that the eiruv shall rest on a place that is four (tefachim wide), which is not the case here (without using the width of the basket).

The Gemora notes the source of the ruling of Rabbi Yehudah: It was taught in a braisa: Rabbi Yehudah said: If a man stuck a pole into the ground of a public domain and placed his eiruv on it, his eiruv is effective if the pole was ten tefachim high and four tefachim wide; but if not, his eiruv is ineffective.

The Gemora asks: On the contrary! Aren't he and his eiruv (in the latter case) in the same domain?

The Gemora answers: Rather, this is what he meant: If the pole was ten tefachim high, it is necessary that at its top it shall be four tefachim wide (for then, it will be

regarded as a private domain, and the eiruv will be effective); but if it was not ten tefachim high, it is not necessary for its top to be four tefachim wide (for even if it is less than four tefachim wide, the eiruv is effective, since an object suspended within ten tefachim from the ground is deemed to be resting on the ground itself).

The Gemora notes that it (Ravina's explanation of the braisa) is not in agreement with that of Rabbi Yosi the son of Rabbi Yehudah, seeing that it was taught in a braisa: Rabbi Yosi the son of Rabbi Yehudah said: If one stuck a rod (ten tefachim high) into (the ground of) a public domain, at the top of which is a basket (that is wide four tefachim), and he throws (an object from a public domain) and it comes to rest upon it, he is liable. [The reason for this is that we say 'gud achis mechitzah' - the walls of the basket are considered to extend downward, and the basket is now considered something which is four tefachim wide and ten tefachim high, therefore it has the status of a private domain.]

The Gemora disagrees: It may be in agreement even with that of Rabbi Yosi the son of Rabbi Yehudah, for there, the (imaginary) walls surround the reed (and it is regarded as a private domain), but here, the walls do not surround (the tree – an area of for by four tefachim, unless the other principle of carving out is applied, and therefore we do not say that the walls of the basket extend to the ground).

Rabbi Yirmiyah replied (in an attempt to explain the braisa): A basket is different, since one may tilt it (downward), thus lowering it within ten tefachim from the ground. [He may then take the eiruv without violating any Biblical prohibition. Since the eiruv is accessible to him at twilight, the eiruv is valid.]

The Gemora relates: As Rav Pappa was sitting and saying over this teaching (of R' Yirmiyah), Rav bar Sheva asked Rav Pappa from the following Mishna: How is one (who wishes to prepare an ervei techmin for a festival that

occurred on a Friday; he desired that it should be effective for the Shabbos as well) to proceed? [The concern is that if the eiruv were deposited only on the festival eve, it might sometimes become lost during the day before the Shabbos commenced, and the man - though he is provided for during the festival at the commencement of which the eiruv was in existence, would remain unprovided for during the Shabbos day.] He arranges (for the eiruv) to be brought (by an agent¹ to the desired place) on the first day (Thursday afternoon) and, having remained there with it until nightfall (which is the time that the eiruv takes effect), he takes it with him (so it shouldn't get lost) and goes. [This can only be done when the festival precedes the Shabbos; if, however, the Shabbos was first, he cannot do that, for the eiruv cannot be carried.] On the second day (Friday afternoon), he again comes with it and keeps it there until nightfall, when he may eat it (for the eiruv took effect already) and go. [He cannot again take it away with him, as he did on the evening of the festival, since carrying in a public domain is forbidden on the Shabbos.]

¹ For if he himself would be there, that is automatically his place of residence, and there would be no necessity for an eiruv