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Bava Basra Daf 19

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Soaking and Scrubbing Pool

The *Mishna* had stated: He should not make a place to launder clothes there, unless he distanced it three *tefachim* from the wall of his neighbor’s pit.

Rav Nachman said in the name of Rabbah bar Avuha: The three *tefachim* mentioned here apply only to the soaking pool, but the scrubbing pool must be kept four *amos* from the wall (*on account of the splashing*).

The *Gemora* cites a supporting *braisa*: The launderer’s pool must be kept four *amos* away. But did we not learn that three *tefachim* is sufficient? This shows that the *Mishna* must be understood as Rav Nachman has explained.

Some put this in the form of a contradiction as follows: We learned in our *Mishna*: He should not make a place to launder clothes there, unless he distanced it three *tefachim* from the wall of his neighbor’s pit. But does not a *braisa* say that four *amos* are necessary?

Rav Nachman said in the name of Rabbah bar Avuha: There is no contradiction. The *Mishna* is speaking about the soaking pool and the *braisa* is dealing with the scrubbing pool.

Rav Chiya the son of Rav Avya taught a *braisa* that explicitly stated like Rav Nachman: unless he distanced his

soaking pool three *tefachim* from the wall of his neighbor’s pit. (19a)

Distancing and Plastering

The *Mishna* had stated: A person should not dig a circular pit next to that of his friend, unless he distanced his pit three *tefachim* from the wall of his neighbor’s pit and he puts plaster on the inside of his pit.

The *Gemora* inquires: Are both steps (*distancing his pit, plus applying plaster*) required, or is either one of them sufficient?

The *Gemora* initially thinks that it is obvious that both are necessary, for otherwise, the *Mishna* should have combined this case together with the next cases of the *Mishna* (olive refuse etc.), where there it explicitly states that one may either distance the hazard, or he may apply plaster to the wall. However, the *Gemora* rejects this, for perhaps they are separated because one case involves a damage due to moisture and the other is dealing with damage because of heat.

The *Gemora* attempts to resolve this from a *braisa*: Rabbi Yehudah says: If they both have fields that have ground so soft that it comes away in their hands, they can each dig their pits on each side and distance three *tefachim* and plaster their pits. Seemingly, only this type of soil requires both; however, in an ordinary case, either option would be sufficient.

The *Gemora* rejects this proof, for perhaps the *halachah* would apply even with ordinary soil. It had to say this case, as one might think they should have to distance themselves even further with this type of soil. This is why it said that even with this type of soil, only three *tefachim* is necessary. (19a)

Flint Stones and Sand

The *Mishna* had stated: One must distance his olive refuse, manure, salt, plaster, and flint stones (*all things which generate heat*) from a wall belonging to his friend a distance of three *tefachim*, or he should put plaster inside.

The *Gemora* cites a *Mishna* in *Shabbos* (47b): One may not insulate food before *Shabbos* with materials that generate heat, such as olive refuse, manure, salt, plaster, and wet or dry sand.

The *Gemora* asks: Why is it that here flint stones are included in the list and not sand, and there sand is included and not flint stones?

Rav Yosef answered: It is because it is not usual to insulate food in flint stones.

Abaye asked him: And is it usual to insulate food in woolen shearings and strips of purple wool? And yet these are mentioned in a *braisa*, which says: Food may be insulated in woolen shearings, combed wool, strips of purple wool and fluff, but these things must not be moved on *Shabbos* (*on account of muktzah*)!?

Rather, said Abaye in explanation of the *Mishna*: *Its friend sheds light on the other*. That which our *Mishna* taught in connection with flint stones is also to be applied to sand, and that which was taught in connection with sand in the other *Mishna* is also to be applied to flint stones.

Rava asked him: If *its friend sheds light on the other*, let the *Mishna* mention the whole list in one place and only one item in the other, allowing us to understand that the same rule applies to the rest?

Rather, said Rava, the reason why flint stones are not mentioned in connection with *Shabbos* is because they are liable to break the pot if used for insulation, and the reason why sand is not mentioned here is because while it makes hot things hotter, cold things (*like the wall*) remain cold.

The *Gemora* asks: But Rabbi Oshaya included sand in his *braisa* in the list of things that have to be kept away from the boundary?

The *Gemora* answers: He was speaking of things which produce moisture. (19a)

Explaining the Restrictions

The *Mishna* had stated: One must distance seeds, his plow, and urine three *tefachim* from the wall of his friend.

The *Gemora* asks: Cannot seeds be inferred from the restriction against a plow (*for they are planted in plow furrows*)?

The *Gemora* answers: The *Mishna* is referring to seeds that are dropped into the ground by hand.

The *Gemora* asks: Cannot the restriction against a plow be inferred from seeds (for one plows in order to plant seeds)?

The *Gemora* answers: The *Mishna* can be referring to the plowing done for trees.

The *Gemora* asks: Cannot both be inferred from the restriction against water?

The *Gemora* answers: The *Tanna* is speaking of *Eretz Yisroel*, of which it is written: *It drinks the water of the rain of heaven (and it does not need to be irrigated)*.

The *Gemora* notes: Our *Mishna* would imply that seeds spread their roots sideways (*and that is how the wall can be damaged*). How is it then that we have learned in a *Mishna*: If a man bends over a vine and plants it in the earth, if there are not three *tefachim* of earth over it (*the part of the vine that is under the ground*), he must not plant a seed on top of it (*for that would be kilayim*). And to this a *braisa* was taught: But he may plant all around it! [*Evidently, the seeds do not spread their roots sideways!?*]

Rabbi Chaga answered in the name of Rabbi Yosi: The reason one is forbidden from planting seeds near a wall is because the seeds break up the soil underneath it and brings up loose earth (*which consequently causes the wall to weaken*). (19a – 19b)

Distancing Urine from a Wall

The *Mishna* had stated: One must distance his urine three *tefachim* from the wall of his friend.

Rabbah bar bar Chanah said: It is permissible for a man to urinate on the side of another man's wall, as it is written: *And I will cut off from Achav's house every one that urinates against the wall (every man) and the wealth that is stored in houses, and the animals that are left in the fields of Israel*. [*Evidently, urinating by a wall was common practice!?*]

The *Gemora* answers: our *Mishna* is discussing urine which is poured from a pot (*and then it requires distancing from a wall*).

The *Gemora* asks from a *braisa*: A man should not urinate on the side of another man's wall unless he keep three

tefachim away. This is the rule for a wall of brick, but if it is a wall of stone, he should keep away only so far as not to do any damage. How much is this? A *tefach*. If the wall is of hard stone, it is permitted. This surely refutes the ruling of Rabbah bar bar Chanah!

The *Gemora* asks: But Rabbah bar bar Chanah based himself upon a scriptural verse?

The *Gemora* answers: The meaning of the verse is this: Even something whose way is to urinate against a wall, I will not leave him (*Achav*). And what is this? A dog. (19b)

Lessening the Size of a Window

Rav Tuvi bar Kisna said in the name of Shmuel: A thin wafer does not lessen the size of an opening (*food will not diminish the size of an opening since there is a good possibility that it will be removed to be eaten; the tumah in one room will be transmitted to the other room through the window which is larger than one tefach by one tefach*).

The *Gemora* asks: Why a thin one? The same can be said even of a thick one!?

The *Gemora* answers: He had no need to state the obvious ruling. It goes without saying in the case of a thick cake that since it is fit for food, the owner does not abandon it in the window (*and therefore it does not lessen the window space*), but with a thin one, since it soon becomes repulsive (*due the moisture in the wall*), I might think that he abandons it there. Therefore Shmuel teaches us that even a thin wafer does not lessen the window space.

The *Gemora* asks: Shouldn't Shmuel's *halachah* be derived from the fact that a wafer is a thing which is susceptible to *tumah*, and the rule is that anything which

is susceptible to *tumah* cannot form a partition to prevent the transmission of *tumah*?

The *Gemora* answers: He was referring to a wafer which was kneaded with fruit juice (*and not water; fruit juices is not one of the seven liquids that can make a food item susceptible to tumah*). (19b)

DAILY MASHAL

Rav Ezriel Tauber once related the following incident in which he personally was involved.

In Monsey we have a Choshen Mishpat Kollel. At one time they gave classes to business men in the laws of Choshen Mishpat relating to business. Once they gave a shiur on the laws of Geneivas Da'as. You are not allowed to mislead the purchaser of any item regarding its quality. You can't cover up and beautify any merchandise if you know that it is blemished or damaged. This applies to all customers, both Jew and Gentile. You can't deceive the purchaser. If there is any defect in the merchandise you are supposed to make your buyer aware of it and not to cover it up. This is Geneivas Da'as - misleading and cheating him - is an Issur d'Oraisa (a prohibition from the Torah).

One of the businessmen attending the shiur was a very big real estate investor. After the shiur he went over to the Rav and said, "I think I'm in trouble now. I recently purchased a large office building. Prior to the acquisition I made a thorough engineering assessment. However, I overlooked something which is very rare; there is a very deep crack in one of the sub foundations. From time to time it's acting up and it's wiping out my entire cash flow. I fell in. There is nothing I can do about it. The seller sold it 'as is'. I made my normal investigation but missed this problem. I decided, well, if I fell in, let me get rid of it and someone else will also fall in. So I put it on the market and I sold it for a million dollar profit. It's all in the contract. Thank G-d I got rid of it. But from what I learned now, I have to reveal to my buyer any hidden damage, and if I

don't, I'm violating Torah Law! But I can't do that! If I tell him about it, he'll never buy and I'll be stuck with it forever! I can't tell him! What should I do!?!"

The Rav answered him, "There's nothing you can do. According to the Torah, you have to tell him."

"But he's never going to buy it!"

"Well, then that's what Hashem wants."

So he started sweating. On the one hand he was a yorei Shomayim - a G-d fearing Jew. But he didn't want to lose a million dollars.

"Listen. If I give the Kollel \$100,000, could I get off?"

"Sorry, it doesn't work like that."

"What if I give \$500,000? I'll make Hashem my partner and split the profits."

"Sorry, it doesn't work like that. It's a Torah violation."

"What if I just try to get back my original investment? I'll give the Kollel a million dollars! I'll just cut my loss. Just let me out!"

"You don't seem to understand. It's geneiva. You can't steal. There's no way around it."

Then Rav Tauber stepped in. "I don't understand. Either you believe what Chazal tell us or not. The gemara tells us that everyone's *parnossa* is determined on Rosh Hashana. You can't make more than was decreed for you. But you also can't make less. Either you believe it or not. But if you don't believe Chazal, I advise you that next Succos you come to shul with a lulav and a banana. All it says in the Torah is *pri eitz hadar*, a beautiful fruit. How do you know it's an *esrog* and not a banana? If it's up to you, then maybe a banana is beautiful in your eyes. The Torah doesn't say *esrog*. But Chazal said to take an *esrog*. If you believe that, so believe this also. The same Chazal that say it's an *esrog*, and you spend hundreds of dollars for an *esrog*. The same Chazal say that everything is decreed on Rosh Hashana. Nobody can take away a penny from you. So be honest and come forward and tell the buyer the whole story. Whatever is going to be is going to be. But if not, if you think you're going to make a million dollar profit, maybe Hashem has decided differently. Then he will arrange that you'll lose a million dollars a different

way. You're going to put a million dollars in the stock market and lose it all, and you'll get a heart attack to boot. So believe Chazal and be honest. Whatever is supposed to be will be."

He answered, "OK. You're right. I'm willing to go according to the Torah law. I'm going to tell the buyer the whole story and he can leave the deal if he wants to."

Then Rav Tauber interjected, "Listen. Don't tell him now. He signed a contract and tied up your property. He put down a quarter of a million dollar deposit. He's probably trying to flip the deal in his favor. Wait for the closing. He may not show up. Then he blew the whole deal and the quarter of a million dollars legally belongs to you. Wait for the closing. Then you tell him and if he wants out he can leave."

He agreed.

The closing date arrived and the buyer came with all the money. He was willing to take the property. The room was filled with big shot lawyers, insurance agents, and real estate experts. Then the seller gave the purchaser a memorandum that the buyer should be aware that there is a crack in the sub foundation and it acts up from time to time.

"What's this?"

"Can't you read English? That's exactly what it is."

So he gave it over to his lawyer. He was a Gentile. The lawyer turned to the seller and asked, "What is this?"

The seller said, "We are Jewish and do business according to the ethics of Sinai. According to Jewish law we can't sell anything and cover up any blemishes. So I'm letting you know about the fault in the foundation. And if he wants to back out, I let him out."

The lawyer was smart. So he asked, "Sure. If you're such a religious guy, why didn't you say something at the signing of the contract?"

"To tell you the truth at the signing I was not aware of my obligation. I only found out about it later. So I'm telling you now. If he wants out, he can get out."

The lawyer looked at him and snickered, "Yeah, yeah, Jew." He turned to his client and whispered in his ear,

"Don't listen to this Jew boy thief. He probably got a better offer. He's looking for a way to get you to walk away. Don't listen to him. Buy it."

The buyer turned to the seller and said, "Know what? I buy it 'as is'."

"Mazal and bracha. It's yours!" So he sold it for a million dollar profit.

Now everybody was sure that the Jew was a ganev. Who's meshuga to do what he did and reveal a major defect in a multimillion dollar deal. But a month went by and the crack really started acting up and wiped out the buyer's whole cash flow. Then he came running. "You Jews are amazing. I can't believe it. You were telling the truth!"

Who is like the Jewish people, a holy nation!