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Bava Basra Daf 56

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o"n

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Propriety Act

The *Gemora* inquires: If there is no border or *chatzav* tree by the field, how much of the field is acquired (*when one makes a chazakah in one part*)?

Rabbi Merinos explained in Rabbi Eliezer's name: All the field that is called in his name (*his field, and not "his fields"*).

Rav Pappa explains this: If, for instance, people call it, "The field of So-and-so's waterhole."

Rav Acha bar Avia was once sitting in front of Rav Assi, and he sat and he said in the name of Rabbi Assi bar Chanina: A *chatzav* tree planted in between two fields divide the fields with respect to a deceased convert's property. [*If a person acquires one of them when the convert dies, he must actively acquire the other as well.*]

Rav Yehudah said in the name of Rav: A *chatzav* tree is a plant with which Yehoshua marked the boundaries of the land of Canaan for the Jewish people (*for the roots go straight down and not to the side; this way, it does not take nutrients from other lands*).

Rav Yehudah also said in the name of Rav: Yehoshua enumerated only the cities on the borders (*for this way each tribe would know their portion*).

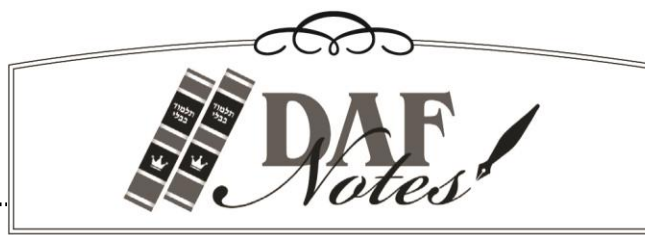
Rav Yehudah said in the name of Shmuel: Any land which Hashem showed Moshe (*at the time of his death*) is subject to the obligation of *ma'aser*.

The *Gemora* notes that this is coming to exclude the land of the Kenites, the Kenizzites and Kadmonites (*for although these lands were promised to Avraham Avinu, they were not included in the Seven Nations that were promised to the Jewish people; these were not shown to Moshe and are not subject to the ma'aser obligation*).

The *Gemora* cites a *braisa* (*regarding the identity of these lands*): Rabbi Meir says that these are the Naphtuchim, the Arabians and the Shalmaites. Rabbi Yehudah says that they are Mount Seir, Ammon and Moav. Rabbi Shimon says that they are Damascus, Asia Minor and Aspamia. (56a)

Mishna

If two witnesses testified that he occupied the property for three years, and they were found to be *zomemim* (*when witnesses offer testimony and other witnesses refute them claiming that the first set of witnesses could not possible testify regarding the alleged crime since they were together with them at a different location at the precise time that they claimed to witness the crime somewhere else; the Torah teaches us that we believe the second pair in this instance; the first witnesses are called "eidim zomemim" -- "scheming witnesses," and they receive the exact punishment that they endeavored to have meted out to the one they accused*) - they pay the



original owner of the land the entire amount (*for they tried to take the property away from him*). If there were two witnesses on the first year, and two on the second, and two on the third (*and they were all found to be zomemim*) - we divide it between them (*each set of witnesses must pay a third of its value*). If there were three brothers (*each one testifying on one of the years*) and another witness joined with them (*for each year*) - these are three (*valid*) testimonies (*for two brothers are not testifying on the same thing*), and they are one testimony with respect to *zomemim* (*if they were found to be zomemim, they all must pay; the three brothers pay half of the value, and the one witness pays the other half*). (56a – 56b)

Witnesses Testifying regarding a Chazakah

The *Gemora* notes that the *Mishna* (*which ruled that three separate sets of witnesses can testify regarding one's chazakah on a property*) is not in accordance with Rabbi Akiva's opinion, for it was taught in a *braisa*: Rabbi Yosi said: When my father, Chalafta, went to Rabbi Yochanan ben Nuri to study Torah, or, as others recorded: When Rabbi Yochanan ben Nuri went to study Torah by my father, Chalafta, he said to him: Suppose a man occupied a piece of land for one year as testified by two witnesses, for a second year as testified by two other witnesses, and for a third year as testified by still two other witnesses (*totaling three years, constituting a chazakah*), what is the *halachah*? He replied: This is a proper *chazakah*. He said to him: I also say like that, but Rabbi Akiva disagrees, for Rabbi Akiva used to say: When the Torah said (*regarding witnesses testimony*), "*a matter*," it means that they must testify regarding a complete matter, and not about half a matter.

The *Gemora* asks: But according to the Rabbis, what will the exposition of "*matter*," "*but not half a matter*" be excluding?

The *Gemora* answers: It will exclude a case where (*in an attempt to prove that a girl has become an adult*) one witness testified that there was one hair on her back and the other testifies that there was one hair on her stomach.

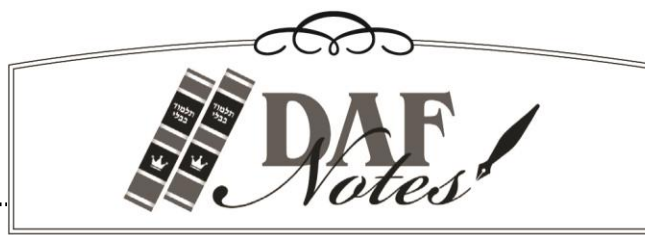
The *Gemora* asks: But since each hair is testified to by only one witness, would this not be both half a matter and half a testimony (*for there are not two witnesses testifying on each hair*)?

The *Gemora* answers: It excludes a case where two witnesses testify that there was one hair on her back and two other witnesses state that there was one hair on her stomach, and the reason that it is regarded as "*half a matter*" is because one set is testifying that she is a minor and the other is similarly testifying that she is a minor.

Rav Yehudah said: If one of the witnesses testified that he used the field for wheat for three years and another witness testified that he used it for barley, it is a valid *chazakah*.

Rav Nachman asked: If so, if one witness testified that he used the property in the first, third, and fifth years, and another testified that he used it in the second, fourth, and sixth years, this would also constitute a *chazakah*!?

Rav Yehudah replied to him: What is the comparison? In your case, the year that one witness is testifying about is not referred to by the other, but in my case, both are testifying regarding the same year. And how do we explain their discrepancy (*between wheat and barley*)? It is because people do not distinguish between wheat and barley. (56b)



INSIGHTS TO THE DAF

Mentioning a Father's Name

The *Gemora* cites a *braisa*: Rabbi Yosi said: When my father, Chalafta, went to Rabbi Yochanan ben Nuri to study Torah, or, as others recorded: When Rabbi Yochanan ben Nuri went to study Torah by my father, Chalafta, he said to him: Suppose a man occupied a piece of land for one year as testified by two witnesses, for a second year as testified by two other witnesses, and for a third year as testified by still two other witnesses (*totaling three years, constituting a chazakah*), what is the *halachah*? He replied: This is a proper *chazakah*. He said to him: I also say like that, but Rabbi Akiva disagrees, for Rabbi Akiva used to say: When the Torah said (*regarding witnesses testimony*), “*a matter*,” it means that they must testify regarding a complete matter, and not about half a matter.

Rashi in Shabbos (115a) explains that Chalafta was the name of Rabbi Yosi's father. Reb Akiva Eiger asks: If so, how was Rabbi Yosi permitted to mention the name of his father? It is explicitly ruled in Shulchan Aruch (Y"D 240:2) that one is forbidden from mentioning his father's name, during his lifetime and after his death as well!?

He quotes an answer from his son, Reb Shlomo: It emerges from Rashi in Sanhedrin (100a) that if a title of honor precedes the mentioning of one's father's name, it is permitted. Since “Abba” is a title of honor, Rabbi Yosi was permitted to say “Abba Chalafta.”

The following is the explanation of the proof: Rabbi Yochanan said: Geichazi was punished for calling Elisha, his Rebbe, by his name. Rashi writes: He did not say, “My teacher, my master, So-and-So.” Evidently, one is permitted to mention his Rebbe's name if he says, “My teacher, my master” first. Accordingly, Reb Shlomo derived from here that the same would be true regarding

one's father. A son would be permitted to mention his father's name if he mentions a title of honor before the name. Reb Akiva Eiger agreed to this logic.

Reb Shlomo, in his teshuvos, adds that the honor that one must give to his teacher is greater than the honor he must provide to his father, for his teacher leads him to the World to Come. So if it is permitted to call one's teacher by his name when it is preceded by a title of honor, it is most certainly permitted to call one's father by his name if it is preceded by a title of honor.

He also rules that although Rashi said that Geichazi did not say, “My teacher, my master,” it is not necessary to say both, “teacher and master.” One of them would be sufficient.

DAILY MASHAL

A Protected Species or a Protective Species?

The scilla, or squill, is a low plant of the lily family with blue, pink or white flowers, common in Eretz Israel. Its roots are very deep and push straight down and, according to our sugya, Yehoshua therefore used these plants to mark borders between the tribes. Scilla in Hebrew is chatzav and in Aramaic, as in our gemara, chatzuva. In his Ben Yehoyada', Rav Yosef Chayim explains that the name of the plant most befits its purpose as chatzuva contains the words chatzu bah – “divide with it” – i.e., use it to divide the land.