



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

### Bava Metzia Daf Kuf Aleph

SHATAF NAHAR ZEISAV

- **Ulla in the name of Reish Lakish** said, the Mishna is only discussing a case where the trees were uprooted with clumps of earth, and only after they have been in the field that they were thrown into for 3 years. However, within those 3 years all the olives will belong to the owner of the trees, because he can tell the owner of the field, if you would have planted new trees you would not have been allowed to eat for the first 3 years in any case.
  - **Q:** The Gemara says this logic is flawed, because the owner of the field can answer back, "If I would plant new trees, after 3 years I would be able to eat all of the produce, but in our case you will be eating half of the produce forever"!? **A:** Rather, **Ravin in the name of Reish Lakish** said, the Mishna is only discussing a case where the trees were uprooted with clumps of earth, and only within 3 years of having the trees been in the field. However, after those 3 years all the olives will belong to the owner of the field, because he can tell the owner of the trees, "If I would plant new trees, after 3 years I would be able to eat all of the produce!"
    - **Q:** The Gemara says this logic is flawed, because the owner of the trees can answer back, "If you would have planted new trees you would not have been allowed to eat for the first 3 years in any case, but yet you have split the produce with me for those 3 years!?" **A:** The Gemara says, the field owner can answer back and say, "The reason I can eat half the produce of the first 3 years is because if I would have planted trees, I would have had narrower trees, with less shade, which would have allowed me to plant other things underneath them. Now I cannot do so. That is why I am entitled to half the produce."
- A Braisa says, if the owner of the olive trees that were uprooted and deposited into someone else's field says, "I will take my trees back to my field", we do not listen to him.
  - **Q:** Why is this so? **R' Yochanan** said, to ensure the settling of the land of EY. **R' Yirmiya** said, there is a great need to try and explain the reason for this ruling.
- A Mishna says, **R' Yehuda** says, if someone becomes a sharecropper on a "sdei avosav" (an ancestral field) from a goy, he must first give maaser and then give the goy his share. The talmidim thought that "sdei avosav" refers to land in EY, and it is so called, because it is the land of Avrohom, Yitzchak, and Yaakov. They also thought that a goy can't be koneh land in EY with regard to removing it from a maaser obligation. Therefore, he is treated like one who leases a field for a fixed price (rather than a percentage), who must always first take off maaser and then pay, and the sharecropper of land in EY from a goy is treated in this way as well.
  - **Q:** **R' Kahana** asked **R' Pappi** (or **R' Zvid**), a Braisa says that **R' Yehuda** says that if a goy forcibly takes a "sdei avosav" and a Yid then becomes a sharecropper on that field, he must first remove maaser and then give the goy his share. According to what was said above, this is even if the goy didn't take it forcibly!? **A:** We must say that a goy could be koneh land in EY to the point of making the land patur from maaser, and a sharecropper will not be treated like a fixed lessee. When the Mishna says "Sdei avosav", it refers to a goy who actually forcibly took the field from the father of the sharecropper. The Mishna is saying that this sharecropper must give maaser, because he would work this field even if he has to give maaser for the goy's share, because he is emotionally attached to the field. However, any other person would not have to give maaser for the goy's portion, because that would deter him from working the field and would leave the field desolate.
    - **Q:** Why did the **Rabanan** penalize the sharecropper in this case? **A:** **R' Yochanan** said they did so, so that it will be expensive for him to act as a sharecropper,

and he will instead take pains to get the field back from the goy. **R' Yirmiya** said, there is a great need to try and explain the reason for this ruling.

- We have learned, if someone planted trees in another person's field without permission, **Rav** says he is paid the lower of his expenses or the value of what he planted, and **Shmuel** says we assess how much someone would pay to have a person plant these trees for him, and he gets paid that amount of money. **R' Pappa** said, they don't argue – **Shmuel** is talking about a case of a field that is ready to have trees planted, and **Rav** is talking about a case of a field that is not.
  - This ruling of **Rav** was learned from a story that took place where someone planted trees in another's field without permission. **Rav** told the owner to go and assess the value of what was done. The owner told **Rav** that he does not even want trees in his field. **Rav** told him to go and assess the expenses and the value of what was done (and pay the lesser of). The owner again said that he did not want the trees at all. Ultimately **Rav** saw that the owner fenced in the trees to guard them. He said, this shows that he wants them and therefore he must pay what people normally pay for someone to plant them for him.
- We have learned, if someone went into another's ruin and rebuilt it for him without permission, and then told the owner "I will take back my wood and stones", **R' Nachman** says we allow him to do so, and **R' Sheishes** says that we do not.
  - **Q:** A Braisa says, **R' Shimon ben Gamliel** said that **B"R** say we would allow him to do so, and **B"H** say we would not allow him. Shall we say that **R' Nachman** follows **B"R**? **A:** There is another Braisa where **R' Shimon ben Elazar** says we do allow him. **R' Nachman** would follow **R' Shimon ben Elazar**.
    - **Q:** What is the halacha – do we allow him or not? **A: R' Yaakov in the name of R' Yochanan** said, in the case of the builder of a house, we would allow him. In the case of one who planted trees, we would not allow him, so as to assure the development of the land of EY. Others say we would not allow in the case of the trees, because the land has already been weakened, and removing trees would do further damage.
      - The difference between these reasons would be if this took place in chutz laaretz.

#### MISHNA

- If a person rents a house to another, he may not evict him in the winter – which is from Succos to Pesach. In the summer months he must give 30 days' notice. In large cities (where there is a housing shortage) he may only evict in the summer or the winter with 12 months' notice. With regard to stores, whether in small cities or large cities he must give 12 months' notice to evict. **R' Shimon ben Gamliel** says, in the case of bakeries or places where they dye, he must give 3 years' notice.

#### GEMARA

- **Q:** Why is it that he can't evict in the winter? If it is because when one rents for the winter he has agreed to rent for the entire winter, then the same should be said for one who rents in the summer, so why can one evict then with 30 days' notice? **A:** The reason is that in the winter it is difficult to find housing to rent.
  - **Q:** The Mishna says that in large cities he may evict with 12 months' notice. This seems to allow for this even if the 12 months' were to end in the winter. According to what was just said he should not be allowed to evict in the winter! **A: R' Yehuda** said, the Mishna should be understood as follows. If one rents a house without specifying a term, he may not evict him in the winter unless he gave 30 days' notice before Succos.
    - A Braisa says this as well. The Braisa says, when the Mishna says "30 days'" and "12 months'" it is giving a notice period that is required. And, just as the landlord must give notice for eviction, the tenant must give notice before leaving as well, so that the landlord can find a replacement tenant.
- **R' Assi** said, if even one day of winter has come, the landlord may no longer evict from Succos to Pesach.

- **Q:** We have said that he can if he gives 30 days' notice before Succos!? **A:** He means to say, if the notice is any less than 30 days before Succos, he may not evict him until after Pesach.
- **R' Huna** said, the landlord may increase the rent at the end of the term even without having given notice.
  - **Q: R' Nachman** asked, that is essentially evicting him!? **A:** The case is where it became more expensive to rent houses. Therefore, notice is not needed.
- It is obvious that if a landlord's own house collapsed he may ask his tenant in another house to leave (if the term is over) even without notice, because he can tell him that he is no more important than him, and he now needs a place for himself to live. Also, if the landlord sells the property, the new owner cannot evict the tenant, because the tenant can tell him – you are no better than the one you bought from (and just as he could not evict me without notice, neither can you). If the landlord married off a son and needs a place for the new couple to live, we make a determination – if he could have given notice, then we don't allow eviction without the proper notice. If he could not have given notice, then we allow for the eviction, because we allow the landlord to say "you are no more important than me".
  - There was a person who bought a boatload of wine. He needed a place to store it all, and asked a particular woman if she had someplace to rent. She said that she did not. He went and gave her kiddushin, and she then rented him a place for his wine. He went back to his house and wrote her a get. She then went and hired workers to remove the wine from her property, left the wine on the road, and paid the workers with the wine itself. **R' Huna the son of R' Yehoshua** said, this man deserved what was done to him.
    - The action taken by the woman is allowed not only if the storage area that he used is something that she normally did not rent out. Even if it was an area that was normally rented, she can say that she did not want him there and can evict him for having gotten his stuff there through trickery.

#### R' SHIMON BEN GAMLIEL OMER SHEL NACHTOMIM...

- A Braisa explains, the reason they are given more time is because they give long-term credit to their customers and therefore need to be around to collect.

#### MISHNA

- With regard to a rented house, the landlord is obligated to provide the door, the bolt, and the lock, and anything that a craftsman is needed to make. Anything else is the responsibility of the tenant.
- The animal wastes found in the chatzer of a rented house belong to the landlord, and the tenant only gets the ash of the "tanur" and the "kirayim" (two types of ovens).

#### GEMARA

- A Braisa says, regarding a rented house, the landlord must provide the doors, must cut out windows, must reinforce the ceiling, and must support any beams. The tenant is responsible to make the ladder needed for roof access, to make a gate on the roof, to put up gutters, and to plaster the roof.
  - **Q:** They asked **R' Sheishes**, who is chayuv to put up the mezuzah? The Gemara asks, **R' Mesharshiya** said that the mezuzah is the obligation of the one who lives in the house!? Rather, the question was, who must prepare a proper place for the mezuzah to be put in? **A: R' Sheishes** said, our Mishna said that anything that a craftsman is not needed to make, is the responsibility of the tenant. Therefore, this is the responsibility of the tenant.
- A Braisa says, with regard to a rented house, the tenant is responsible for the mezuzah, and the tenant may not take it with him when he leaves. However, if the landlord is a goy, the tenant may take the mezuzah with him when he leaves. It once happened that a tenant took his mezuzah with him when he left, and he ultimately buried his wife and two sons.
  - **R' Sheishes** explained that this story was in a case where the landlord was a Yid.