



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

Bava Metzia Daf Lamed Ches

MISHNA

- If one gives produce to a shomer to watch, even if the produce begins to spoil, the shomer should not touch them to sell them. **R' Shimon ben Gamliel** says, he should sell them in the presence of Beis Din, because he is considered to be like someone who is returning a lost item to its owner.

GEMARA

- **Q:** Why do the **Rabanan** say he should not sell the spoiling produce? **A: R' Kahana** said, it is because a person prefers having one kav of his own produce more than having 9 kav of someone else's (so he rather have some spoilage than have money to buy someone else's produce). **R' Nachman bar Yitzchak** said, we are concerned that the owner used this produce to be terumah or maaser for other produce that he has, so it can't be sold since it is only mutar for a Kohen.
 - **Q:** A Braisa says, if one gives produce to a shomer to watch, the shomer may not touch it. Therefore, the owner may use it for terumah or maaser. Now, according to **R' Kahana** this makes sense. However, according to **R' Nachman bar Yitzchak**, the logic is reversed! **A:** The Braisa means to say, that now that the **Rabanan** said the produce should not be sold, the owner may go ahead and use it for terumah and maaser and not have to worry that maybe the produce was sold.
 - **Rabbah bar bar Chana in the name of R' Yochanan** said, the machlokes in the Mishna is only where the produce is spoiling at a normal rate. However, if it is spoiling quicker than usual, all would agree that it should be sold in Beis Din.
 - **Q:** This clearly argues on **R' Nachman bar Yitzchak**, because his reason would not allow for selling based on rate of spoilage. Does this argue on **R' Kahana** as well? **A:** The reason he gave is that a person would rather have one of his own versus nine from somebody else. Based on that, even if spoilage is happening quickly, it should not be sold.
 - This reason may be an exaggeration, and maybe he would agree that if it is spoiling quickly, the shomer should sell the produce.
 - **Q:** The Braisa said that the owner may rely on the shomer not to have sold the produce, and he may therefore designate the produce as terumah or maaser. Now, according to **R' Yochanan**, the owner should be concerned that the produce began spoiling quicker than normal, and based on that he should not be allowed to use it as terumah and maaser! **A:** Spoiling quicker than normal is not common, and he need not be concerned for it.
 - **Q:** According to **R' Yochanan**, if it does spoil quickly, should the shomer sell it? Why are we not concerned that the owner used it for terumah? **A:** The shomer would sell it to Kohanim at the lower price.
 - **Q:** According to **R' Nachman bar Yitzchak** we should also sell it to the Kohanim for the lower price! **A:** The machlokes is as follows. **Rabbah bar bar Chana** holds that it is totally not common for something to spoil more than usual, and even if it does happen, it takes a long time before it happens. Therefore, if the owner used it for terumah or maaser, he would have done so before it began to spoil more than usual. Therefore, at the time that it does spoil to that degree, it can be sold to Kohanim. **R' Nachman bar Yitzchak** holds that such spoilage is common, and if it happens, it happens rather quickly, and therefore, if we tell

the shomer to sell it, he may sell it before the owner is done using it as terumah for other produce, which will cause him to eat tavel.

- **Q:** A Braisa says, **R' Meir** says, if one gave a shomer produce, wine, oil, or honey to watch, and it began to spoil, the shomer should not sell it. The **Chachomim** say he should remedy the situation and sell it in Beis Din, to other people and not to himself. Now, we see that **R' Meir** says it should not be sold, and presumably this is even if the spoilage is more than usual. If so, this refutes **R' Yochanan** who says that all agree that such produce should be sold!? **A: R' Meir** was talking about where there are normal levels of spoilage.
 - **Q:** The case of wine, oil, and honey that spoil are examples of spoilage that are more than normal!? **A:** With those items, once they spoil, there is no salvaging them anymore. Therefore, there is no purpose to sell them at that point.
 - **Q:** The **Rabanan** said to sell the spoiled oil or honey. What use do they have that would create a market for them? **A:** Oil can be used to process leather, and honey can be used to treat a camel's wound.
 - **Q:** The Braisa said that the **Rabanan** said he should "remedy the situation". If it already spoiled, what remedy is there to make? **A: R' Ashi** said, he should sell them to prevent the containers from becoming ruined by the spoilage as well.
 - **Q:** According to **R' Yochanan**, what is the machlokes in this Braisa? **A: R' Meir** is only concerned for a very significant loss, whereas the **Rabanan** are even concerned for a smaller loss.

R' SHIMON BEN GAMLIEL OMER YIMKIREIM B'BEIS DIN...

- **R' Abba the son of R' Yaakov in the name of R' Yochanan** paskened like **R' Shimon ben Gamliel**, and **Rava in the name of R' Nachman** paskened like the **Rabanan**.
 - **Q:** We have already learned that **R' Yochanan** paskens like **R' Shimon** whenever he is quoted in a Mishna, except for 3 cases, so where is there a need to state it here again? **A: R' Abba** does not agree that **R' Yochanan** said that, so he had to specifically say that he paskens like him here.
- From **R' Shimon** we can see that he would hold that Beis Din would tell a relative to work and protect the land of someone who is in captivity until he is freed. From the **Rabanan** we can see that they would hold that Beis Din would not do that.
 - **Q:** Maybe **R' Shimon** says to sell it in the Mishna because the entire principal value stands to be lost, but in the case of the field, since the principle won't be lost, maybe he would agree that no one is installed to work the land!? Also, maybe the **Rabanan** say not to sell the produce in the Mishna, either because of the reason of **R' Kahana** or the reason of **R' Nachman bar Yitzchak**. However, maybe they would agree that someone should be installed to work the captive's land!?
 - **Q:** We find that **R' Yehuda in the name of Shmuel** said that we pasken like **R' Shimon ben Gamliel**, and then **Shmuel** also said that we install a relative to work the field of a captive. Presumably these are based on the same logic, and we see that both rulings should therefore go hand-in-hand!? **A:** It may very well be based on two separate reasons. In fact, we find that **Rava in the name of R' Nachman** paskens like the **Rabanan**, and yet **R' Nachman** also paskens that we *do* install someone to care for the field of the captive. This shows that these halachos are based on different logic.
- We have learned, regarding someone who is in captivity, **Rav** says Beis Din does not appoint a relative to work his property, and **Shmuel** says that they do.
 - In a case where there is a rumor that the captive has died, all agree that we do appoint the relative who would be the heir to work the land. The machlokes is where there is no such rumor – **Rav** says we are concerned the relative will ruin the land (since he has no reason to believe he will be inheriting it, he will not properly take care of it), and **Shmuel** says, since he will at the very least be paid like a sharecropper, he will properly take care of the property.
 - **Q:** A Braisa says, **R' Eliezer** explains the pasuk that says Hashem will get angry and will kill a person and make his wife into a widow and his children into orphans. The result

seems obvious based on the fact that he will be killed? Rather, the pasuk is saying that the wives will want to remarry but will not be allowed to, and the children will want to take their inheritance, and we will not allow them to (because of the possibility that the man is still alive). We see from here that Beis Din does not even allow the children to go into the property of their father, and refutes **Shmuel!**? **A: Rava** said, the Braisa means that we do not allow the children to go into the fields and sell them, but they may go in to work the fields.

- The question of whether we put a relative in to work the land is a machlokes among Tanna'im in a Braisa. The Braisa says, if a relative went to work the property of a captive, we allow him to remain there. Moreover, even if the relative heard that the captive is returning, and he therefore quickly cut off all the produce and ate it, he is a "zariz" and thereby profits from his actions. The "property of a captive" that is being referred to is when someone hears that his father, brother, or someone from who he inherits, has travelled overseas and is rumored to have died. However, if someone goes into an abandoned property to work it, he is removed. The "abandoned property" referred to is when someone hears that his father, brother, or someone from who he inherits, has travelled overseas and is not rumored to have died. **R' Shimon ben Gamliel** said that abandoned property is like property of captives. One who goes into "retushim" abandoned property (property that the owner left abandoned voluntarily, not by force) is removed from the property. The Braisa ends off, that all these people who entered and worked another's property are assessed like a sharecropper and given profits for their work. Now, we see from here (the machlokes between the **T"K** and **R' Shimon ben Gamliel**) that there is a machlokes Tanna'im whether we would put a relative in to work the field of one who was captured.