



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

Bava Metzia Daf Lamed Tes

- The Braisa had said that all those who enter another's property (the Braisa was discussing the relatives who enter into an abandoned property and care for it) are given a share of the profits like a sharecropper.
 - **Q:** Which case is that referring to? It can't be referring to a field left abandoned by a captive, because the Braisa said that the relative who tends to that field even gets to eat the produce of the field before the captive comes back, so it would be obvious that he gets paid like a sharecropper! It also can't be referring to the case of "retushim" (where the owner left willingly), because the Braisa said that in that case the relative is taken out of the property. It also can't be referring to the "netushim" abandoned property (where the owner travelled overseas and there is no rumor of his death), because according to **Rabanan** we would take the relative out the property and according to **R' Shimon ben Gamliel** the netushim is the same as case of the captive! **A:** It is referring to the case of the netushim, and **R' Shimon ben Gamliel** holds that netushim is like the captive in the sense that we do not remove the relative, but he holds that it is different than captives in that a relative may even eat all the produce before the captive returns, whereas in the case of netushim he is only paid like a sharecropper.
 - **Q:** Why is this case different than the case of a husband who cares for his wife's property and does *not* get paid like a sharecropper? **A:** In that case the husband feels confident that he will not lose the property. However, in the case of the missing owner, the **Rabanan** wanted to incentivize the relative to care for the land. That is why they have him paid like a sharecropper.
 - **Q:** What does the Braisa mean when it says "all those"? **A:** It comes to include what was said by **R' Nachman**, that if an owner had to run away out of fear of capital punishment, he is treated like a captive, and we therefore put a relative into his property to care for it.
 - **R' Yehuda in the name of Shmuel** said, if a person was taken captive, and he left grain, grapes, dates or olives, that were ready to be cut, Beis Din enters the property and appoints an apitrapis who harvests all this produce on behalf of the owner, and then they bring in a relative to care for the land.
 - **Q:** Why don't they leave the apitrapis there? **A:** We don't appoint an apitrapis for adults.
 - **R' Huna** said we do not appoint a minor relative to go into the property of a captive (we are afraid he will ruin the field), or a relative to go and care for the property of a minor (a minor does not protest against a false claim and we are concerned that the relative will claim that it is his inherited property and the minor will not protest), or the relative of a relative of the minor whose field needs to be cared for (this is where the person is a maternal brother of the minor's relative, and we are concerned that he will say that his brother, who is related to the minor, inherited the land).
 - **Rava** said, we can learn from **R' Huna** (who said that we don't appoint relatives to care for a minor's property, but would appoint a non-relative), that a person cannot make a claim of chazaka on the property of a minor (he cannot claim that he was using the field for 3 years, which shows that he owns the land), even if he continued to occupy the land for 3 years after the minor became an adult.
 - The relative that may not be appointed for the minor's property is his paternal brother (because he has the ability to claim that the field is

actually his own inheritance from their father). However, it is not a problem for the minor's maternal brother to be put into the property. Also, it is only a problem regarding a field. However, regarding a house it is not a problem even for a paternal brother (because the neighbors can testify that it belongs to the minor). Further, even a field is only a problem if they didn't have a document detailing the dividing of their father's estate. If they did, there is no problem.

- The Gemara says, all these things are incorrect. We would not let a paternal brother or a maternal brother, we would not allow them in the case of a field or a house, and we would not allow it whether there is a document detailing the division or not.
- There was an elderly woman with 3 daughters. The woman and one of her daughters were captured, a second daughter had a son and then died, and the third daughter remained. **Abaye** was unsure on how to act. He said, we can't allow the remaining daughter to control all the property, because maybe her mother had died, meaning that part of the property was inherited by the grandson, and we cannot have a relative take charge of the property of a minor. We also cannot give half the property to the child, because maybe the elderly woman was still alive, and we don't place a minor into the property of a captured person. Therefore, **Abaye** said, we give half the property to the remaining sister, and the other half we give to an apitrapis to care for on behalf of the child. **Rava** said, once we bring in an apitrapis for the minor, we bring him in to care for the entire property. Eventually they heard that the elderly woman had died, but heard nothing about the daughter who was captured along with her. **Abaye** said, the remaining daughter gets 1/3, the child gets 1/3, and with regard to the third that belongs to the captive sister, we give 1/2 of that to the remaining sister and 1/2 to the child and we appoint an apitrapis for that part that goes to the child. **Rava** said, once we set up an apitrapis for the sixth of the child, we also have the apitrapis care for the other sixth as well.
- Mari bar Isak had a paternal brother from a distant town. When their father died, the brother came and asked him for half the estate. Mari told him that he does not recognize him and will therefore not give him anything. The brother went to **R' Chisda**, who told the brother to bring witnesses that he is Mari's brother. The brother said that people are afraid of Mari and won't testify. **R' Chisda** then told Mari to bring witnesses that he is not his brother, explaining that this method must be taken because people are afraid to testify against him. At the end, witnesses testified that this man was Mari's brother. The brother then demanded that he also get half of the improvements that Mari did to the land. **R' Chisda** told Mari, his claim is valid, based on a Mishna and on a statement of **Rabbah**. **Abaye** said, in the case of the Mishna the adult children know the minor siblings and are mochel their rights to the improvements. However, Mari did not know he had this brother and was therefore never mochel! The matter made its way to **R' Ami**, who said, when a relative steps in to care for a captive's land we at least pay him like a sharecropper, so Mari should at least get that!? When **R' Chisda** heard that he said, the relative entered the captive's land with reshus from Beis Din. Mari entered his father's land without reshus, so the cases can't be compared. Also, the brother was a minor at the time that Mari took possession, and we don't install a relative to care for the property of a minor. When **R' Ami** heard this he said, no one told me that the brother was a minor at the time.