



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

### Bava Basra Daf Lamed Daled

- A person went to another and asked, "What are you doing in my field!?" The other person answered, "I bought it from you and have already established a chazakah!" He then produced only one witness who testified that he used the land for 3 years. The **Rabanan** who were learning by **Abaye** thought to say that this case is like the case of "naska d'R' **Abba**" (the case of **R' Abba** regarding a silver bar). The case was that one person grabbed a silver bar away from another person. They went to **R' Ami**, and **R' Abba** was sitting there as well. The plaintiff brought one witness who testified that the silver bar was grabbed from him. The defendant said, "I did grab it from him, but it is my item that I grabbed (i.e. you had stolen it from me)". **R' Ami** asked, how should we pasken? We can't simply make him give back what he grabbed, because there is only one witness who saw him grab, and the defendant has a miguy that he could have denied grabbing it. We can't simply say that he doesn't have to return it, because there is a witness that says he did grab it, so he should have to swear to contradict the witness, which counters the miguy. We can't make him swear that he did not grab it, because he admits that he did! **R' Abba** said, the defendant is in a situation where he has an obligation to swear (as any case where there is a single witness that testifies against someone), but he cannot swear, and the rule is, that when someone is faced with an obligation to swear, but cannot, he must pay. Therefore, the defendant will have to return the silver bar. The **Rabanan** in our case wanted to say that in our case there is a single witness that the person used the land and the produce. This person cannot swear that he did not, because he admits that he did. Therefore, he is also someone who is faced with an obligation to swear, but cannot, and therefore he must pay for the produce that he consumed during this time. **Abaye** said, the cases cannot be compared. In the case of the silver bar, the single witness is there to take the money away from him. If a second witness would come, we would take the silver bar from him. In our case, the witness is there to bolster his claim of chazakah. If a second witness would come, we would *give* him possession of the field, not take it away. If there is a case that can be compared to the case of **R' Abba**, it would be where the plaintiff brought one witness that the defendant had only been in the field for 2 years, and where the plaintiff was attempting to get the defendant to pay for the produce consumed during that time.
- Two people argued about a boat that was on the river, each claiming that it belonged to him. One of them said he could produce witnesses that he owned the boat, and asked that Beis Din seize the boat while he locates these witnesses, to assure that the other person wouldn't grab the boat and sell it. The question became whether Beis Din should seize the boat. **R' Huna** said they should and **R' Yehuda** said they should not. The Beis Din went and seized the boat. The person ultimately could not produce witnesses. He then told Beis Din, "Now release the boat, and allow the stronger party to take possession" (which is normally what would happen when neither party has proof). The question then became, should Beis Din release a boat that they have seized, or not? **R' Yehuda** said they should not, and **R' Huna** said that they should.
  - The Gemara paskens, that Beis Din should not seize property which is the subject of a dispute, and if they did, it should not be released.