



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

Bava Basra Daf Lamed Vuv

- **R' Yehuda** said, if someone goes to harvest the fruit of another's tree, claiming that he bought the rights to do so, Beis Din will allow him to do so (if, for example the owner of the tree is not around), because a person would not have the chutzpah to harvest the produce of someone else. Therefore, we assume that he is telling the truth that he has the right to do so.
- **R' Yehuda** said, if someone uses the piece of a field that is left outside of a wall that people make to keep out the wild animals (and they leave a small piece of the field on the outside of that wall), it does not establish a chazakah. The reason is, that the owner can say, the reason he did not protest is because anything planted on that side of the wall is eaten by the wild animals, so there was no need to protest.
- **R' Yehuda** said, if an occupant used the field by eating its produce of orlah, shmitta, or klayim, it does not establish a chazakah (this was assur for the owner to benefit from anyway, so he had no reason to protest).
 - A Braisa says this as well. The Braisa says, if an occupant used the field by eating its produce of orlah, shmitta, or klayim, it does not establish a chazakah.
- **R' Yosef** said, if the occupant uses the field by cutting the grain when it is still unripe and uses it for animal feed (instead of allowing it to ripen and making it fit for human consumption), it does not establish a chazakah (this is not used in the way of true ownership, and therefore the owner has no reason to protest).
 - **Rava** said, if the field is in the area of Mechuza, it would be a chazakah (because in that area people typically cut their grain when it is unripe).
- **R' Nachman** said, using a field that is full of cracks and cannot produce, does not establish a chazakah (because the owner does not care about that field and will not protest).
- If an occupant planted a field and the produce only yielded as much as the cost of the planting, that cannot be used to establish a chazakah (since he did not benefit from the field, the owner did not feel the need to protest).
- With regard to the people of the Reish Galusa, they cannot establish a chazakah in anyone else's field (because people are afraid to protest against them, so quiet enjoyment does not show ownership), and no one can establish a chazakah in their fields (they never feel the need to protest, because they will simply use their power to take back a field when they want to).

V'HA'AVADIM...

- **Q:** We have learned that **Reish Lakish** said that there is no chazakah for ownership of animals, because they move around, so the same should be for slaves!? **A:** **Rava** said, **Reish Lakish** meant that simple possession doesn't create a chazakah of ownership, but possession for 3 years does.
 - **Rava** said, if the slave is a baby in the crib, simple possession would create a chazakah of ownership (because it can't move).
 - **Q:** This seems obvious!? **A:** The case is that the baby's mother was there, which could lead us to say that the mother simply forgot the baby there, but the baby's presence does not show ownership. **Rava** is teaching that we do not say that, because a mother does not forget her baby.
 - **Q:** There was a case of a person who seized goats for having eaten his barley, and **Shmuel's** father said he can collect up to the value of the goats, because he could have claimed that he owned the goats. According to **Reish Lakish** he could not have claimed ownership of the goats, so how could **Shmuel's** father have said that!? **A:** Goats are different than other animals in that they are given over to a shepherd, and are not left to roam about freely.
 - **Q:** In the mornings and evenings they are not under the care of a shepherd!? **A:** This case happened in Nehara'ah, and in Neharda'ah there were many Arab

thieves. Therefore, goats were never left unsupervised. Rather, they were watched by the owner until they were given to the shepherd.

R' YISHMAEL OMER SHLOSHA CHADASHIM...

- **Q:** Maybe we can say that the machlokes between **R' Yishmael** (who says he must use the field for 3 months in the first and third years) and **R' Akiva** (who says that one month in each of those years is enough) is whether plowing alone can suffice to establish a chazakah? **R' Yishmael** would hold that it is not enough, so he must plow, plant, and harvest, which is why he needs 3 months, whereas **R' Akiva** holds that plowing alone is enough? **A:** If **R' Akiva** only required plowing, why would he require an entire month? Even one day would be enough!? Rather, all hold that a planting and harvest is also needed. The machlokes is whether the harvest must be on a fully grown crop (which is what **R' Yishmael** holds) or if it can even be on a partially grown crop (the view of **R' Akiva**).
- A Braisa says, plowing does not establish a chazakah, but some say that it does.
 - **Q:** Who is the view that says that plowing does create a chazakah? **A:** **R' Chisda** said it is **R' Acha** from a Braisa. The Braisa says, if one plows for one year and plants the other two, or plows for two years and plants the third, it is not a chazakah, but **R' Acha** says it is a chazakah.
 - **R' Ashi** said, "I asked all the Gedolei Hador, and they told me that plowing can establish a chazaka".
 - **R' Nachman** explained to **R' Bibi**, the logic behind saying that plowing establishes a chazakah is that a person would not stand by quietly if he saw someone plowing his field. The logic behind saying that plowing does not establish a chazakah is that a person is happy to see someone else working his field for him when that other person is not even benefitting from the field.
 - The people of Pumbedra asked **R' Nachman bar R' Chisda** how to pasken. He answered, "**R' Acha** and all the Gedolei Hador say that plowing does establish a chazaka".
 - **Q: R' Nachman bar Yitzchak** asked, do we pasken based on numbers (on the number of people holding that view)? There are many who don't agree to that view, including **Rav and Shmuel** in Bavel, and **R' Yishmael and R' Akiva** in EY, who all hold that plowing does *not* establish a chazakah!?
 - **Q:** We find the views of **R' Yishmael and R' Akiva** in our Mishna (they require 3 months or a month of a year for a chazakah, which means they hold that plowing alone is not enough). Where do we see that **Rav** held this way? **A:** We find that **R' Yehuda** said in the name of **Rav**, in explanation of our Mishna, that these are the views of **R' Yishmael and R' Akiva**, but the **Rabanan** hold that a chazakah requires 3 full years of usage "from day to day". Presumably the words "day to day" come to teach that plowing alone is not enough.
 - **Q:** Where do we see that **Shmuel** holds this way? **A:** We find that **R' Yehuda** said in the name of **Shmuel**, in explanation of a Mishna that discusses making a chazakah on a field of trees, that these are the views of **R' Yishmael and R' Akiva** (that harvesting three types of trees even within one year will create a chazakah), but the **Rabanan** hold that a chazakah is only established when he harvests 3 date crops, 3 grape crops, and 3 olive crops. Clearly **Shmuel** holds that plowing is not enough.
 - **Q:** What is the difference between **Rav and Shmuel**? **A:** **Abaye** said, the difference is how long it would take to establish a chazakah on a young date tree, which produces a crop more than once a year. According to **Shmuel** the chazakah would be established once 3 crops are harvested, but according to **Rav**, it would have to be for 3 complete years.