



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

### Bava Basra Daf Nun Tes

- **R' Yehuda in the name of Shmuel** said, if a leader belonging to one person flows water into his neighbor's property, and the owner of the roof attached to the leader wants to seal the leader to prevent the water flow, the neighbor can prevent him from stopping the flow by saying, "Just as you acquired a right to have your water flow into my property, I have also acquired a right to the water of your roof".
  - We learned, **R' Oshaya** said, the owner of the chatzer can prevent the owner of the leader from sealing the water flow, and **R' Chama** said he cannot prevent him from doing so. They went and asked **R' Bissa**, who told him that he can prevent him from doing so.

#### SULAM HAMITZRI EIN LO CHAZAKAH

- **Q:** Why is it that the Tanna does not explain what an Egyptian ladder is, but he does explain what an Egyptian window is? **A:** He did so, because he wanted to mention that **R' Yehuda** argues regarding the Egyptian window.
- **R' Zeira** said, a Tzuri window which is placed within 4 amos of the ground can establish a chazakah, and the neighbor may protest such a window. A Tzuri window that is put higher up cannot establish a chazakah, and the neighbor cannot protest such a window. **R' Illa'ah** said, even if it is above 4 amos it cannot establish a chazakah, and the neighbor can protest it.
  - **Q:** Maybe we can say that the machlokes is whether we force people to allow benefit for others when it involves no loss on their part? **R' Zeira** would hold that we force this, which is why we don't allow him to protest, and **R' Illa'ah** says we do not force it, which is why he may protest? **A:** It may be that all agree that we would force one to do so. This case is different, because the neighbor can say "There may be times when a bench is near the window, and you will stand on it and look into my chatzer!" That may be why he is allowed to protest in this case.
  - There was a person who was trying to prevent his neighbor from opening a window above 4 amos. **R' Ami** sent the person to **R' Abba bar Mamal** and told **R' Abba** to pasken like **R' Illa'ah**.
- **Shmuel** said, if the window was installed to provide light for the house, then even if it is a tiny window, it can establish a chazakah.

#### MISHNA

- If the end of a beam sticks out into the neighbor's chatzer at least a tefach, it can establish a chazakah, and the neighbor may protest its placement there. If it is less than a tefach, it does not establish a chazakah, and the owner may not protest it.

#### GEMARA

- **R' Assi** (or **R' Yaakov**) in the name of **R' Mani** said, if a person establishes a chazakah for a beam sticking out one tefach, he has established a chazakah for 4 tefachim.
  - **Q:** What does this mean? **A: Abaye** said, he means to say that if one established a chazakah for a width of one tefach and a length of 4 tefachim, he also establishes a chazakah for a width of 4 tefachim.

#### PACHOS MITEFACH EIN LO CHAZAKAH...

- **R' Huna** said, the Mishna means that the owner of the beam may not protest the use of the beam by the neighbor in whose chatzer the beam is sticking into. However, the owner of the chatzer may protest against the owner of the beam for having it protrude into his chatzer. **R' Yehuda** said, even the owner of the chatzer cannot protest.

- **Q:** Maybe we can say that they are arguing in the concept of “hezik re’iya”, where **R’ Yehuda** would hold it is not considered true damage and **R’ Huna** would hold that it is? **A:** It may be that all agree that it is considered to be true damage. This case is different, because the beam has a limited use to be used for hanging things on it. Therefore, the beam owner would not risk using it for looking into the neighbor’s chatzer. **R’ Huna** would hold, that there may be a time when the beam owner stands on the beam, and out of fear of falling will fail to turn away from looking into the neighbor’s chatzer. Therefore, the neighbor may protest.

#### MISHNA

- A person may not open windows into a jointly owned chatzer.
- If a person bought a house in a chatzer, he may not open the house into a different jointly owned chatzer.
  - If a person builds an attic, he may not have it open up into a jointly owned chatzer. If he wants, he may build a room in his house or build the attic on top of his house, and have it open into his house.

#### GEMARA

- **Q:** Why does the Mishna only say it may not be done into a jointly owned chatzer? The same would be true for doing so into someone else’s privately owned chatzer!? **A:** The Mishna means to say, surely it may not be done into someone else’s privately owned chatzer (because that would surely be hezek re’iyah), but it even may not be done in a jointly owned chatzer, where the one opening the window can tell his partner, “You must anyway conceal your activities from me if you don’t want to be seen”. The Mishna teaches that the partner can respond, “Without the window there, I only need to conceal myself when you are in the chatzer. Now that you have the window, I must even conceal myself when you are in your house!”
- A Braisa says, it once happened that a person opened a window into a jointly owned chatzer and **R’ Yishmael the son of R’ Yose** said that the person thereby established a chazakah since no one protested. The person then went to **R’ Chiya**, who told him that he must seal the window.
- **R’ Nachman** said, if the owner builds a wall to seal the window, the neighbor establishes an immediate chazakah to disallow the window if the owner of the window does not protest, because one does not allow for his light to be blocked without permission while remaining quiet.

#### LAKACH BAYIS B’CHATZER ACHERES...

- The reason he may not do so, is because it increases the foot traffic in that chatzer.
  - **Q:** Why does the Mishna allow the building of an attic if he opens it to his house? There too, he increases the foot traffic!? **A:** **R’ Huna** said, when the Mishna allows the building of a room, it means it allows for the dividing of a larger room into two smaller ones, and when it allows the building of an attic, it means to allow the splitting of a room in its height.