The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן קנ"ג סעיף ט"ז-י"ז

Overview

Siman 153 Seif 16:

If someone lends his house to be used as a *Bais HaKnesses* and he later gets into a fight with someone from the community he cannot prohibit his house to him unless he prohibits the entire *tzibbur* from benefitting from his house. This ruling applies when he lent them his house without specification. However, if he stipulated that he should be able to protest when he wants or if he did not formally lend them his house but merely allowed them to enter he has the right to protest against whomever he wishes.

- This ruling represents an enactment of Rabbeinu Gershon and it seems the rationale is to not embarrass the person. (M.B. 88)

Siman 153 Seif 17:

If someone had a *Bais HaKnesses* in his house for a long period of time the *tzibbur* may not move to another house.

- Moving to another location raises the suspicion that the first family is unfit, therefore, even if they have somewhat of a reason to move they may not do so. (M.B. 90)
- If only some of the *tzibbur* would like to move they are permitted but a group who learned in a home for many years and are now interested in rotating homes may not switch from the original home that hosted the learning. (M.B. 91)
- *Halacha* also states that someone who merited some honor or a *mitzvah* may not be replaced. (M.B. 92)
- The restriction is to move to another house but if they want to build a *Bais HaKnesses* it is permitted. (M.B. 93)

Stories to Share

An Inherent Flaw

ש"ע, ס' קנ"ג, ט"ז: "מי שהשאיל ביתו לבית הכנסת..."

Today's amud discusses the halachos that apply when a person allows his home to be used as a shul.

There was a certain man who rented out his apartment to be used as a beis medrash. The house served them well for some time, but eventually the beis medrash closed for reasons of its own.

The owner eventually sold the apartment and needed to empty it of all furnishings in anticipation of the closing. Suddenly, the owner realized that he had a problem. The bimah had been built into the house and couldn't be removed without breaking it to pieces. Was it permitted to destroy it in this way? The bimah was very ornate and had been used without a mapah. The baal habayis assumed that it probably had the status of tashmishei kedushah and certainly could not be broken away from the apartment. After all, our sages teach that after something is sanctified even for a short time, the sanctity does not just vanish.

On the other hand, perhaps just as the Chasam Sofer permits the use of an apartment after the minyan moves or is disbanded, perhaps the same holds true for the bimah?

שו"ת חתם סופר, או"ח, ס' ל"ב

The Divrei Yatziv was consulted on this and he permitted the man to break the bimah. "Since this table was constructed in such a way that ensured it could not be simply transferred to fulfill its purpose elsewhere, it is as if it had an inherent flaw. Since the one who donated it was well aware of the inevitability of this flaw coming into play, it is as if he stipulated that it remain sanctified only as long as the minyan exists. It was as though he had, from the outset, declared that it will be chulin after it is moved or the minyan is disbanded!"

שו"ת דברי יציב, או"ח, ס' ע"ח

Halacha Highlight

Retaining the right to a *mitzvah*

Shulchan Aruch Siman 153 Seif 17

מי שהיה בביתו בית הכנסת ימים רבים

Someone who had a *Bais HaKnesses* in his home for a long period of time

Shulchan Aruch (סעי' י"ז) rules that if a person hosted a *Bais HaKnesses* in his home for many years the *tzibbur* may not move the *Bais HaKnesses* to another home. The concern is that since this home had been used all this time for *davening* if they were to switch it would raise the suspicion that people had seen something wrong with the host family that makes them unfit or unworthy to continue hosting the *Bais HaKnesses* (מ"ב ס"ק צ'). In the event that only some of the people want to move to another home but a *minyan* will continue in the first home, it permitted (מ"ב ס"ק צ"א).

Mishnah Berurah (ס"ק צ"ב) in the name of later authorities writes that if a group of people have a *chazakah* to bury the deceased they may not protest others who wish to bury the deceased since every person has the right to perform a *mitzvah*. However, in those countries that have groups that are dedicated to fulfill this *mitzvah* and when necessary they leave work in order to bury a corpse, that group has the right to bury the deceased to the exclusion of others. Sha'ar HaTzion (ס"ק ע"ח) references Elya Rabba as the source for this *halacha* and it is based on a ruling of Shelah following the death of the author of Olelos Ephraim. When the Olelos Ephraim died some of his students wanted to be involved with his *taharah* claiming that when a Torah scholar dies it is appropriate for his students to be involved in preparing for his burial. Shelah answered that since the *chevra kaddisha* bury the deceased throughout the year and even leave work to fulfill the *mitzvah* they have the merit to prepare the *tzadik* for burial. However, if they want to allow some of the students to join them they are certainly allowed to do so.