The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן רנ"ב סעיף ג'-ד'

Overview

Siman 252 Seif 3:

If the work was done in public and it is known that it is being done for a Jew it is best to be stringent and prohibit it.

- Accordingly, if one sees a gentile laundering a garment in the river that clearly belongs to a Jew one must protest. Tosefes Shabbos contends that there is no reason for concern of impropriety in this case since it is not known to whom the garment belongs. Chaye Adam asserts that since it is known that people hire launderers as contractors even if the gentile launders the garment in public it is permitted since no one would suspect that the gentile was hired as a day worker. (M.B. 25)

Siman 252 Seif 4:

If the fee was fixed it is permitted for a Jew to wear the garment that a gentile made on Shabbos, since once the fee is fixed the gentile works out of his own self-interest. Some authorities prohibit wearing the garment if it is known that the gentile completed the garment on Shabbos and one must wait after Shabbos b'kedai she'ya'aseh and l'chatchila this is the way one should conduct himself except when the garment is needed on Shabbos when one may be lenient. If it is possible that the garment was finished before Shabbos it is certainly permitted. This is true only if the gentile sends the garment to the Jew's home but it is prohibited to pick up the garment from the craftsman on Shabbos or Yom Tov. These parameters apply for utensils that were made for a Jew but it is permitted to pick up shoes from a gentile shoemaker as long as they do not set a price for the purchased shoes.

- This case is different from the case in siman 276:1 of a gentile who kindles a light for a Jew where it is prohibited to benefit from the light even if they agreed on a fixed fee for his service. In our case although the Jew benefits from the melacha that was done on Shabbos the gentile did not perform that melacha so that the Jew would benefit, he did so out of self-interest so that he should be paid. In contrast when kindling the light his intent was that the Jew should benefit from the light on Shabbos. Accordingly, if the Jew asked why the job was not completed before Shabbos and the gentile responded that he would work on it on Shabbos it is prohibited. (M.B. 27)
- When there is a two-day Yom Tov the item is permitted the second night after b'kedai she'ya'aseh because if the first day was Yom Tov the second day is not and if the first day was not Yom Tov it is certainly permitted. (M.B. 29)
- If the shoe was completed on erev Shabbos and he improved it and smoothed it on Shabbos it is permitted since it could have been worn without those improvements. (M.B. 30)
- Even if one is certain that it was completed before Shabbos or Yom Tov and even if it is needed for Shabbos. The reason is that it gives the impression of impropriety since people may think that the work was done on Shabbos with the Jew's consent. (M.B. 31)
- The gentile is working out of his own self-interest and the prohibition against picking something up from a craftsman does not apply since everyone knows that the gentile makes the shoes for himself in order to sell them. Magen Avrohom and other authorities dispute this ruling and maintain that even in this case it is prohibited and it is only if the shoes were brought to the Jew's home would it be permitted. If the gentile is a shopkeeper and not a manufacturer it is possible one could be lenient but even in this case there are those who disagree. (M.B. 33)
- If the price is mentioned it is considered business that is prohibited on Shabbos even though he does not pay for the shoes on Shabbos. (M.B. 34)

Halacha Highlight

Using articles that were repaired on Shabbos

Shulchan Aruch Siman 252 Seif 4

כל שקצץ אף על פי שיעשה האינו יהדי מלאכה בשבת

Once the fee was set, even if the gentile performs the melacha on Shabbos

Shulchan Aruch (סע' ד') writes that if one sets the gentile's fee before Shabbos the gentile may make a garment on Shabbos and it is even permitted for the Jew to wear that garment on Shabbos. The reason is that once the fee was set the gentile performs the melacha out of his own self-interest rather than for the Jew. Rema relates that there are authorities who are stringent and do not permit one to wear the garment if one knows that the gentile made them on Shabbos. If one knows that they were made on Shabbos one may not wear them after Shabbos until enough time transpired that the gentile could have done the work after Shabbos (בכדי שיעשה). Mishnah Berurah (סק"ל) writes that if, for example, the shoes were completed before Shabbos but the gentile improved them by smoothing the leather on Shabbos, one may certainly wear those shoes on Shabbos. The reason is that the shoes could have been worn already at the onset of Shabbos.

Rav Shlomo Zalman Auerbach (שו"ת מנחת שלמה מהדו"ת סי' כ"ד אות א') points out that this ruling seemingly contradicts another similar ruling. Elsewhere, (סי' שכ"ז ס"ק ט"ז) Mishnah Berurah rules that if a gentile shined shoes in violation of halacha on Shabbos it is prohibited to benefit from the shoes until after Shabbos בכדי שיעשה. The difference between the two cases is that in our case the additional improvement that is done constitutes only a Rabbinic melacha and thus since the shoes were essentially fit for use before Shabbos there is no decree against using them on Shabbos. In contrast, regarding the shining of the shoes, Mishnah Berurah refers to a case in which the gentile performs a Biblical melacha to shine the shoes and thus it is prohibited to benefit from the shoes until after Shabbos בכדי שיעשה.