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Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן ד"ש סעיף א'

Overview

Siman 304 Seif 1 (a):

A man is commanded regarding his slave's rest and applies when the slave was circumcised, immersed for the sake of becoming a slave and accepted upon himself the yoke of mitzvos that are applicable to a slave but if he was not circumcised, did not immerse and merely accepted to comply with the seven Noahide laws he is considered a ger toshav and may perform melacha for himself but not for his master. A Jew may not instruct him to do melacha for the benefit of a Jew even if the instructor is not the slave's master. If the slave did not commit to perform any mitzvos and remains an idolater he is considered the same as one who committed to observe the seven Noahide laws. Accordingly, regarding someone who is not dangerously ill for whom a gentile must be asked to perform any necessary melacha or if someone dies on the first day of Yom Tov and only a gentile may perform melacha necessary to bury the deceased, it is prohibited to ask a Jew's slave to perform these melachos even if he is an idolater. Since there is a Torah prohibition against asking a Jew's slave to perform melacha, it is not permitted unless necessary to save a person's life. Some authorities disagree and permit this. However, if he performs melacha for the benefit of his owner without his knowledge and it is evident that the owner is unaware of what the slave is doing, it is permitted and unnecessary to protest (even if he accepted to keep the seven Noahide laws).

- One pasuk states: למען ינוח עבדך ואמתך כמוך and it refers to a slave who was circumcised, immersed and committed to fulfill the mitzvos incumbent on slaves and teaches that a slave owner is responsible to assure that his slave refrain from melacha on Shabbos. A second pasuk states: וינפש בן אמתך והגר and refers to a slave that was not circumcised, did not immerse and committed only to fulfill the seven Noahide laws. His master must also restrain him from performing melacha but may perform melacha for his own benefit. If the slave also did not commit to observe even the seven Noahide laws there is a dispute whether the owner is obligated to restrain him from performing melacha. (M.B. 1)
- It is permitted to lease one's slave to a gentile if one stipulates that the gentile will not make the slave work on Shabbos. (M.B. 2)
- A ger toshav is someone who committed to observe the seven Noahide laws and refrains from worshipping idolatry even in conjunction with G-d. (M.B. 4)
- The slave may not even perform a Rabbinically prohibited melacha but some are lenient if the owner did not instruct him to perform the melacha. (M.B. 6)
- Although this slave did not commit to fulfill any mitzvos, nevertheless, according to this opinion since he is a slave he may not perform melacha for a Jew. (M.B. 8)
- Instructing a gentile is only Rabbinically prohibited but it is Biblically prohibited to instruct one's slave, therefore, one may not ask him unless it involves a matter of life and death. (M.B. 9)
- This opinion maintains that it is only for his owner that Biblically he may not perform melacha but as far as others are concerned he is no different than any other gentile and thus may perform melacha even for someone who is not dangerously ill. (M.B. 10)
- In other words when it is clear that the melacha is not for the sake of his owner it is certainly permitted. (M.B. 11)

Halacha Highlight

A slave performing melacha during tosefes Shabbos

Shulchan Aruch Siman 304 Seif 1 (a)
אדם מצוה על שביתת עבדו
A man is commanded concerning the Shabbos rest of his slave

Shulchan Aruch elaborates on the obligation of a slave owner to prevent his slave from performing melacha. He identifies three categories of slaves in this regard. One slave is circumcised, immersed and accepted upon himself the mitzvos that a slave is obligated to observe. The second category is one who was not circumcised, did not immerse and merely accepted upon himself the seven Noahide laws. The last category is the slave who does not even commit to observe the seven Noahide laws and remains a practicing idolater. Concerning the first two categories, the owner is obligated to assure that his slave does not perform melacha on Shabbos. The difference between them is that the owner of the slave from the first category must prevent his slave from doing any melacha on Shabbos even for his own self-interest, whereas the owner of the second category of slave is not obligated to restrain his slave from performing melacha out of his own self-interest. There is a debate concerning the slave in the third category. According to the first opinion, the owner is Biblically prohibited to ask him to perform melacha whereas according to the second opinion he is no different than any other gentile and it is only Rabbinically prohibited to ask him to perform melacha. A practical difference between these two opinions is whether it is permitted to ask such a slave to perform melacha for the sake of someone who is ill but not dangerously ill.

Rav Moshe Feinstein (אוי"ח ח"ג סי' ל"ח) writes that once a slave owner accepted upon himself Shabbos he may not allow his slave to perform melacha. It is not similar to the allowance to instruct a gentile to perform melacha during that time since the general prohibition against instructing a gentile to perform melacha is Rabbinic. In contrast, since there is a Biblical prohibition against instructing a slave to perform melacha it is logical that he should be obligated to restrain him from performing melacha even during the period of tosefes Shabbos.