The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שכ"ה סעיף ט'-י'

Overview

Siman 325 Seif 9:

If one is uncertain whether an article was imported from beyond the *techum* it is prohibited. This is true assuming the gentile does not live in one's city but if the gentile lives in one's city and the fruit are available in that city there is no reason to be concerned out of doubt. Even if the gentile has two homes but one of them is within the city we assume the fruit was imported from within the city and it is permitted for consumption, even for the person for whom it was imported.

- Although generally uncertainties regarding Rabbinic prohibitions are treated leniently, since the item will become permitted after Shabbos (*davar she'yesh lo matirin*), it is prohibited on Shabbos. (M.B. 47)

Siman 325 Seif 10:

If a gentile drew water for his animal from a pit located in a private domain to a public domain, it is permitted for a Jew to water his animal from that water provided that the gentile does not know the Jew so that there is no concern that he drew additional water for him. If he drew the water for the Jew's animal it is prohibited for any use, even for another Jew. If he drew the water from a private domain to a *karmelis* it is permitted for use by someone other than the one for whom the water was drawn. Some are lenient and maintain that even if the water was transported for a Jew it is permitted for someone to drink it since it is possible for one to walk to the source and drink water there. Some permit even *l'chatchila* for a gentile to import beer or other items via a *karmelis* or without an *eruv*. Although one should be stringent about the matter, nevertheless, one need not protest against those who are lenient for their Shabbos needs or in a pressing circumstance since one may be lenient regarding instructing a gentile when there is a need as explained above in *siman* 307 and certainly that would apply in this case.

- If the gentile knows the Jew it is prohibited even though he drew the water for himself out of concern that he drew additional water for the Jew. Even if the water was drawn without the Jew present it is prohibited provided that the gentile knows that the Jew needs the water so that it is reasonable to assume that he did additional work for the benefit of the Jew. (M.B. 51)
- This is only Rabbinically prohibited and thus permitted for another Jew for benefit. (M.B. 54)
- In this regard it is not considered as though the Jew is benefitting from melacha performed by the gentile. The restriction is limited to one's animal since it cannot drink directly from the pit, however, if the gentile brought water from a river from which the animal could drink directly or if the pit was in a private domain so that one could bring his animal there to drink without desecrating Shabbos, it would be permitted. (M.B. 55)
- If the Jew could not travel there due to danger it would be prohibited even according to this opinion. The restriction applies to any use of the water. According to *halacha* one should follow the strict position and only in a circumstance of great need or for Shabbos may one rely on the lenient opinion. (M.B. 56)
- Darkei Moshe implies that the custom is to be lenient even with regards to our public domain. (M.B. 59)
- Although it is a *shvus d'shvus* one may not be lenient unless there is a great need or for a full-fledged *mitzvah*, for example, one needs wine for *kiddush* or to bring the hot food one prepared for Shabbos. (M.B. 60)
- One should not hand him a utensil or receive a utensil from him to avoid either the uprooting or placing down the transported object. (M.B. 61)
- Later authorities write that one should not be lenient other than for Shabbos that one cannot do without unless one is forced to refrain but items which are not so necessary, e.g., fruit, one should not be lenient. (M.B. 62)
- It should read, "or in a pressing circumstance." (M.B. 63)

Halacha Highlight

A minor who performs *melacha* for his father

Shulchan Aruch Siman 325 Seif 10
אינו יהודי שמלא מים לבהמתו
A gentile who drew water for his animal

Shulchan Aruch (סעי' י) addresses a circumstance in which a gentile drew water for his animal from a water pit that is a private domain into a public domain. He rules that it is permitted for a Jew to benefit from that water provided that the gentile does not know the Jew so that one would have to suspect that the gentile drew additional water for the Jew. Biur Halacha (ד"ה אינו יהודי שמלא וכו') in the name of Magen Avrohom writes that the same *halacha* is true if a deaf-mute, insane or minor draws water, another Jew may not benefit from that water unless it was drawn for their own interest. If it was drawn for the benefit of another Jew the water is prohibited after Shabbos for the period of בכדי שיעשו.

Rav Shlomo Zalman Auerbach (מאור השבת ח"א פניני נמאור מכתב ט"ז אות ג') addressed the following circumstance. A father instructed his son who is a minor to perform a particular *melacha* before Shabbos and the child forgot to perform that *melacha* before Shabbos. Realizing that he forgot to perform the *melacha* before Shabbos the child performed the *melacha* on Shabbos rather than take responsibility for his negligence to perform the *melacha* before Shabbos. Based on the Biur Halacha, if the child performed the *melacha* out of his own self-interest it is permitted for his father to benefit from that *melacha* but if it is considered as though the child performed the *melacha* for his father it would be prohibited for his father to benefit from that *melacha*. Rav Auerbach ruled that in such a circumstance we consider it as though the child is acting out of his own self-interest, since he does not want his father to become angry with him and thus his father may benefit from the *melacha* that was performed. Rav Chaim Kanievski (שם), on the other hand, maintains that it should be considered as though the *melacha* was performed for the benefit of his father and thus the father may not benefit from the *melacha* that was performed.