The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Tues, Jun 25 2024 ■ י"ט סיון תשפ"ד
סימן של"ו סעיף ב'-ג'

Overview

Siman 336 Seif 2:

Tree roots that are taller than three *tefachim* are prohibited for use but if they are smaller it is permitted for use since it is considered part of the ground. If they extend higher than three *tefachim* and then drop below three *tefachim*, it is prohibited to use the part that is higher than three *tefachim* but permitted to use the part that is below three *tefachim*. If the root extends higher than three *tefachim* and there is empty space beneath it, even though on the other side there is no empty space beneath it and it is even with the ground, it is prohibited to sit on the side that is even with the ground.

- The same is true if a branch extends within three *tefachim* of the ground. (M.B. 18)
- It is permitted to sit upon it. There is a disagreement whether it is permitted to use a small tree (less than three *tefachim*) but has fruit growing on it and the stringent position may also prohibit using vegetable plants that have vegetables growing from it. (M.B. 19)
- Even though it extended from a branch that was prohibited, once it falls within three *tefachim* of the ground it is considered comparable to the ground and may be used. (M.B. 21)
- This is true only when one side is covered so that one side is subordinate to the other three which are visibly more than three *tefachim* high but if two sides are equal to the ground, it is permitted to use those two sides. (M.B. 23)

Siman 336 Seif 3:

It is permitted to walk on grass, whether moist or dry since he does not intend to detach it. However, those who eat in their garden may not wash their hands on the grass since it is inevitable that he will thereby water his grass even though that is not his intent. It is permitted to pour urine or other liquids that do not generate growth. For this reason it is preferred that one refrain from eating in his garden if it will involve use of water since it is very difficult to assure that water will not fall on the ground there.

- The Gemara implies that this is permitted even if the grass is long and one is walking barefooted since it is not inevitable that the grass will become detached. If after walking on the grass one discovers grass on his feet he may not remove it by hand since the grass is *muktzah*. (M.B. 24)
- Biur Halacha writes that when the grass is tall one should not run on it since it is inevitable that it will become detached. (M.B. 25)

Halacha Highlight

Pouring out water that will eventually reach one's garden

Shulchan Aruch Siman 336 Seif 3

אסורים לטל ידיהם על העשבים

It is prohibited to wash one's hands over the grass

Shulchan Aruch (סעי' ג') cautions those who eat in their garden on Shabbos from washing their hands over the grass. The reason is that the garden benefits from the water (זורע) and it also softens the ground (חורש). Although that may not be his intent when washing his hands, since it is inevitable it is prohibited. Mishnah Berurah (ס"ק כ"ז) writes that if the garden where one is eating is not his own nor does it belong to a friend, there are authorities who permit washing one's hands there for although the benefit is inevitable, nevertheless, since he is not interested in that benefit (פסיק רישא דלא ניחא ליה) it is permitted. Others maintain that one may not be lenient *l'chatchila* in such a case.

Poskim debate the permissibility of pouring water into a sink whose pipe directs the water in a way that it eventually flows and reaches ground where vegetation is growing. Rav Shlomo Zalman Auerbach (שמירת שבת כהלכתה פי"ב הע' נ"א) rules that as long as one does not intend to water the ground it is permitted. Even though it is inevitable that the water will reach the ground, it is permitted since the water reaches the ground only indirectly (כח שני) and indirect watering of the ground is permitted. However, if the water exits the pipe right next to the ground one should not be lenient (ארחות שבת ח"א פי"ח הע' י"א). Others adopt a more stringent perspective and consider this direct rather than indirect and thus prohibit pouring water into such a sink even if he does not derive benefit from it (דלא ניחא ליה). This opinion would only permit the use of such a sink if the water collects in a pit. In such a case even if it eventually overflows and reaches the dirt it is permitted since it is then considered indirect. Others are stringent even in such a case and consider this to be his direct action rather than indirect (פסקי תשובות אות ב').

- One is liable for watering seeds since it causes it to grow (זורע) and it is also plowing since it softens the ground. (M.B. 26)
- There are some authorities who permit one to eat in a garden that does not belong to him or someone he loves since it is a *pesik reisha d'lo niche lay* but other authorities adopt, *l'chatchila*, a stringent position. (M.B. 27)
- *Poskim* discuss which beverages do not generate growth and when one could be lenient. (M.B. 29)