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Digest
Mishna Berura
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סימן שמ"ה סעיף ח'

Halacha Highlight

A narrow alleyway

Shulchan Aruch Siman 345 Seif 8
ומתקצרים בקצתן ואין בהם שש עשרה אמה
That narrow to less than 16 *amos*

Shulchan Aruch presents a ruling recorded in the Magid Mishnah in the name of the Rashba. He rules that although generally an area must be 16 *amos* wide to be considered a public domain, nevertheless, if some of the public domain narrows to less than 16 *amos* but it remains aligned with the public domain, it is still considered part of the public domain. Vilna Gaon (ס"ק י"ח) writes that according to Rashba even if the area narrows to a width of only four *tefachim* it retains its status of a public domain provided that the public traverses the area. He equates this with a ruling in the Gemara Eruvin (99b). The Gemara there teaches that if there is a pit in the public domain near a window, as long as the area between the pit and the window is four *tefachim*, it retains its status as a public domain. Biur Halacha (ד"ה ומתקצרין) notes that there is a dispute whether the narrow area must connect to the public domain on two ends. He explains that Rashba does not mention such a prerequisite, thereby implying that even if it is connected to the public domain on only one side, it is sufficient. In contrast, others write that the narrow section is not considered part of the public domain unless the alleyway is open on both ends to the public domain.

Overview

Siman 345 Seif 8:

If a road is 16 *amos* wide and part of it narrows to less than 16 *amos*, there are authorities who maintain that if the narrow area is aligned with the public domain, it is categorized as a public domain.

- Shulchan Aruch actually refers to two cases, one in which part of the street narrows and the second is if the entire street is not 16 *amos* wide. In both cases as long as the street is aligned with the public domain, is open on both ends and many people traverse the area, it is considered part of the public domain. Since Shulchan Aruch does not distinguish, the implication is that even if the street narrows to even less than 13 *amos* it would be considered a public domain, according to this opinion. (M.B. 25)

Vilna Gaon (ס"ק י"ט) also notes that the Rosh disagrees and rules that even when the public domain narrows, it may not narrow to less than thirteen and a third *amos*. In fact, he writes that *seif* 8 and *seif* 9 discuss the same scenario but in *seif* 8 Shulchan Aruch presents Rashba's position whereas in *seif* 9 he presents Rosh's position. However, other commentators explain that in *seif* 9 Shulchan Aruch refers to an alleyway perpendicular to two public domains and the *halacha* is that if the alleyway is thirteen and a third *amos* wide, it is categorized as a public domain.