The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Shabbos, Oct 2 2024 ■ א' תשרי תשפ"ה
סימן שנ"ה סעיף ד'-ה'

Overview

Siman 355 Seif 4:

Water that is not ten *tefachim* deep is not considered water to permit pouring water into it employing the leniency of a suspended partition. This is certainly true if the waters dried up, even though at one point it was ten *tefachim* deep.

- If it is not ten *tefachim* deep it is treated as though it is dry ground. Other authorities disagree with this distinction unless people walk through the water, even if with difficulty, in which case according to all opinions it is treated as dry land. Gra maintains that one may rely on the lenient opinions. (M.B. 41)

Siman 355 Seif 5:

When there are two platforms, one above the other, separated horizontally but not four *tefachim* apart and irrespective of whether vertically they are within ten *tefachim* of one another or whether they are ten *amos* apart, if the residents together constructed a partition around the upper platform but did not construct any partition for the lower one, they are both prohibited from drawing water until they make an *eruv*. Similarly, if they joined together to make a partition for the lower platform they may not draw water unless they make an *eruv*. If each one constructed his own partition, one does not prohibit the other, even if the other person did not construct a partition altogether. If they both contributed to form a partnership for each partition, one does not cause the other to be prohibited.

- The two neighbors cause one another to be prohibited only when together they constructed a single partition and the two platforms are close to one another. If they are more than four *tefachim* apart, so that it would be necessary to throw a bucket a significant distance, they do not prohibit one another. (M.B. 42)
- It is certainly true if the two platforms are aligned horizontally. (M.B. 43)
- The height difference is not significant, even though it will require throwing the bucket upwards which is difficult. (M.B. 45)
- Even though they use one another's platform during the week, they do not cause the other to be prohibited unless they specified permission to use the other's platform and in such a case an *eruv* is necessary. (M.B. 47)
- Certainly, if each one made their own partition, each one may use his platform without requiring an *eruv*. Some maintain that when the upper platform is aligned directly above the lower so that his bucket will go through the opening in the lower platform and there is not ten *tefachim* of distance between the height of one and the other, neither one may draw water without an *eruv*. (M.B. 48)
- The above ruling that when they constructed a partition together they prohibit one another is limited to where only one platform has a partition and the other does not but if they both have partitions that were built in partnership, each one is permitted to use his platform to draw water. (M.B. 49)

Halacha Highlight

Hanging partitions

Shulchan Aruch Siman 355 Seif 4

מים שאין עמקים עשרה טפחים

Water that is not ten *tefachim* deep

Shulchan Aruch (סע' ד') rules that a body of water is afforded special leniencies only if it is ten *tefachim* deep. If the water is less than ten *tefachim* deep it is not granted the leniency of a hanging partition. The source for this ruling is the Bais Yosef who notes that according to the Mishnah (Shabbos 100b) a puddle that is not ten *tefachim* deep is considered part of the public domain. Therefore, it is logical to assume that water less than ten *tefachim* is also not assigned the leniency of a hanging partition since it is considered part of the domain that surrounds it. Bach and Magen Avrohom point to comments made by Tosafos in different places that clearly indicate that the leniency of a hanging partition applies even to water that is less than ten *tefachim* deep and thus they reject Bais Yosef's assertion that only water ten *tefachim* deep is afforded the leniency of a hanging partition. Mishnah Berurah (ס"ק מ"א) cites Bach and Magen Avrohom's dissenting opinion.

Vilna Gaon explains that the point of dispute between Bais Yosef and Bach relates to whether one differentiates between a platform and a boat. Bach maintains that there is no *halachic* difference between them and thus challenges Bais Yosef from comments of Tosafos that equate the two. Bais Yosef, on the other hand, distinguishes between them and thus is not forced to explain that the Gemara refers to a case in which the hanging partition is above a body of water less than ten *tefachim* deep. After referencing the explanation of the Vilna Gaon Mishnah Berurah concludes that even according to Vilna Gaon, if one wants to rely on the lenient opinion that affords a body of water less than ten *tefachim* deep the leniency of a hanging partition, he may do so since there are authorities who do subscribe to that position.