The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שנ"ז סעיף א'

Overview

Siman 357 Seif 1:

If a yard is smaller than four *amos* square and is adjacent to a public domain, it is prohibited to pour water into it on Shabbos during the summer. Since it is not four *amos* square, the two *seah* of water that a person uses on a daily basis will not become absorbed and it is as if he is pouring the water into the public domain. Therefore, it is necessary to dig a hole which is capable of holding two *seah* of water. Any hole that is half an *amah* square and three-fifths of an *amah* deep will contain two *seah* of water. **It doesn't matter whether the hole was dug in the yard or out of the yard provided that if it is outside of the yard it must be covered with wooden planks so that it should be considered a *makom patur* and the water will go from his hand to the *makom patur*. Once one dug a hole he may pour as much water as he wants into it. If it cannot contain two *seah* of water he may not pour any water into it. If the yard is four *amos* square, even if one side is longer than the other or during the winter regardless of the dimensions of the yard, it is permitted to pour out as much water as one chooses. If a courtyard and אכסדרה independently do not have four *amos* square but can combine to make four *amos* square it is permitted to pour water into it.** The same is true when two ledges in front of two upper stories have paving that can absorb water, if they are near one another their areas combine. **These guidelines apply when a yard is adjacent to the public domain but if it is adjacent to a *karmelis*, even if the yard is very small, a hole is unnecessary even during the summer** (See below *siman* 377).

- Chazal assume that people use two *seah* of water each day and that amount of water can be absorbed in four *amos* square of ground. Accordingly, he is not interested in the water going out of his yard and he is not liable. If the yard is smaller than that the water will not become absorbed and since he wants his yard to be clean he intends for the water to exit the yard and thus we decree that he cannot pour the water into his yard out of concern that he will pour water directly into the public domain. (M.B. 1)
- One could adjust any of these dimensions provided that it is capable of containing two *seah* of water. (M.B. 4)
- In Rema's case it is a *makom patur* even without the covering but the concern is that garbage will collect thereby minimizing its size so that it becomes subordinate to the public domain. (M.B. 7)
- Even if it was full from *erev* Shabbos it is permitted to pour additional water on Shabbos since the presence of the hole serves as a reminder. For this reason one is permitted to pour out as much water as he wishes even though the amount more than two *seah* will flow into the public domain. (M.B. 8)
- We are concerned that he will pour two *seah* of water. (M.B. 9)
- This is true even if he did not dig a hole altogether. (M.B. 12)
- The ledges have soft paving that are capable of absorbing water. (M.B. 13)
- They are within four *tefachim* of each other and thus are treated as though they are one place. (M.B. 14)

Halacha Highlight

Pouring water into one's yard

Shulchan Aruch Siman 357 Seif 1
אין שופכין מים לתוכה בשבת
One may not pour water into it on Shabbos

Shulchan Aruch discusses the circumstances in which it is permitted for one to pour out waste water into his yard and the circumstances in which it is prohibited to do so. Mishnah Berurah (סק"א) provides some essential background to these *halachos*. Chazal estimate that people use two *seah* of water on a daily basis to wash their face, hands and feet as well as other uses. Since the water cannot be poured into the public domain or *karmelis,* people will pour it out into their yard. Chazal also estimate that two *seah of water* can be absorbed in ground that is four *amos* by four *amos* and not leave a mess in his yard. Since he would not mind if the water remains in his yard, if it happens to flow out into the public domain his action would not constitute an act of *meleches machsheves*. If the area of the yard was smaller so that the water will not be absorbed and he does not want his yard to be become filthy, it is assumed that he intends for the water to flow out of his yard. Once we determine that his intent is for the water to flow out of his yard we are concerned that if he is permitted to pour the water into his yard he may pour the water directly into the public domain or a *karmelis*. In such a circumstance he can dig a hole that contains two *seah* of water and then it would be permitted.

From Mishnah Berurah's explanation it is evident that pouring water into one's yard that then flows into the public domain is not Biblically prohibited and thus the reason for the Rabbinic injunction is out of concern that he will pour directly from his yard into the public domain. Shulchan Aruch HaRav (סע' ב' וג') notes that if one pours out the water on an angle near the edge of the public domain so that it will exit his yard into the public domain by his direct force it is Biblically prohibited. Shulchan Aruch refers to where the water will flow out on its own after settling somewhat in the yard.