The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Tuesday, Nov 5 2024 ■ ד' חשון תשפ"ה
סימן שנ"ז סעיף ב'-ג'

Overview

Siman 357 Seif 2:

If a sewer is covered for a distance of four *amos* in the public domain and contains an area of four *amos* square, it is permitted to pour water onto the sewer even during the summer even though the water will immediately flow out of the yard. This assumes that the sewer is not a wooden duct which does not absorb water but if it is made from stones it will absorb and it is permitted. According to Rambam even if the sewer or pipe is 100 *amos* one may not pour water into it during the summer, instead one should pour it outside of the sewer and allow it to fall into the sewer.

- Meaning the first four *amos* adjacent to the yard are covered and it is at least four amos wide. (M.B. 17)
- It is permitted provided that he does not intend for the water to exit the yard. (M.B. 18)
- If the sewer is made from wood it is clear that his intent is for the water to go out of the yard, even if it is 100 *amos* long. (M.B. 19)
- There is a lot of dirt between the stones. (M.B. 20)
- The sewer runs 100 *amos* in one's yard but it is nevertheless, prohibited since the water exits from his force. We follow the lenient opinion. (M.B. 21)
- The pipe refers to the piece attached to the roof from which water from the roof falls to the public domain. (M.B. 22)

Siman 357 Seif 3:

When is the above true? When the water flows to the public domain but if it flows into a *karmelis*, it is permitted to pour water into the sewer even during the summer. Some maintain that there is no difference between a *karmelis* and the public domain. This is limited to a *karmelis* in a city which can be confused with the public domain even nowadays that we do not have public domains but it is permitted when the *karmelis* is outside of the city or is a yard where the residents did not make an *eruv*. If a city is surrounded by a wall and they did not make an *eruv*, it is treated the same as a yard in which they did not make an *eruv*. If the water channel is above ten *tefachim* and the water passes from it through a *makom patur* to the *karmelis*, one may be lenient and this is the prevailing opinion.

- This is the completion of Rambam's words. It makes a difference for us in a case where the sewer is made from wood so that the water will for sure flow out of the yard but if the yard is adjacent to a *karmelis* it is permitted. (M.B. 23)
- If the sewer is not covered four *amos* in the *karmelis*, according to Shulchan Aruch it is permitted and according to the other opinion it is prohibited. There will also be a practical difference in the case of a small yard since this opinion will prohibit it. (M.B. 24)
- Meaning the yard that contains the sewer or a yard that does not contain four *amos* squared which is adjacent to a yard in which they did not make an *eruv*. If the water flows into such a *karmelis* it is permitted. (M.B. 26)
- The channel through which the water will be directed into the *karmelis* is higher than ten *tefachim* so that the water will travel through *makom patur* and it is permitted even if his intent is for the water to go into the *karmelis*. (M.B. 28)
- Pri Megadim asserts that Rema is referring to all of the *halachos* that he mentioned. (M.B. 29)fa

Halacha Highlight

Discarding sewage water

Rema Siman 357 Seif 3

דאין חלוק בין כרמלית לרשות הרבים

There is no difference between a *karmelis* and the public domain

In these two *seifim* Shulchan Aruch presented a disagreement whether it is permitted on Shabbos to pour water into a sewer that will take the water into the public domain. The first opinion cited by Shulchan Aruch maintains that if the first four *amos* of the sewer that is in the public domain is covered and the sewer contains at least four *amos* by four *amos* it is permitted to pour water into the sewer. One restriction he adds is that the sewer may not be made from wood that is non-absorbent, but if it is made from material that can absorb it is permitted to pour water into the sewer even during the summer. The second opinion presented by Shulchan Aruch is Rambam's position who contends that one may never pour water directly into the sewer, but it is permitted to pour water next to the sewer and from there it flows into the sewer and out to the public domain. However, Rambam's stringency is limited to where the water in the sewer will enter the public domain but if it will enter a *karmelis* one may pour water directly into the sewer.

Rema cites opinions who contend that there is no difference between water that will go to the public domain or to a *karmelis*. Mishnah Berurah (ס"ק כ"ד) notes that although we follow the lenient opinion that permits pouring water directly into the sewer, the opinion cited by Rema still has relevance and that is in a case where the sewer is made from non-absorbent material in which case according to the opinion cited by Rema it is prohibited the same as Shulchan Aruch prohibits this in *seif* 2. Chazon Ish (או"ח סי' ק"ד סק"ב) writes that our sewer pipes that direct waste water to a *karmelis* does not pose an issue even when the pipes are made from non-absorbent material. The reason is that the pipes are enclosed on all sides so that they are considered a *makom patur* rather than part of the private domain and thus the water moves from a private domain, through a *makom patur* and then into a *karmelis* which is permitted according to Rema according to all opinions.