The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שנ"ח סעיף ג'-ו'

Overview

Siman 358 Seif 3:

A mound ten *tefachim* high is treated as a *karpeif*.

- The reason is that its wall came into existence on its own. (M.B. 40)

Siman 358 Seif 4:

If one planted trees in a *karpeif* that is more than two *beis seah*, to minimize its space, the space is not considered minimized (even if it is ten *tefachim* high and four *tefachim* wide) **and the same is true if one dug a pit.**

- The space can be minimized only with something that is not commonly in a *karpeif*. (M.B. 42)
- It is obvious that movable objects do not diminish the space of a *karpeif*. (M.B. 44)

Siman 358 Seif 5:

If one constructed a post and thereby diminished the size of the *karpeif*, as long as it is three *tefachim* wide its size is diminished.

- It must be ten *tefachim* tall. (M.B. 46)

Siman 358 Seif 6:

If one constructed a partition that is ten *amos* long in front of the original partition with the intent to nullify it so that it should be considered non-existent and the area will be enclosed by virtue of the newly constructed partition, if the new partition is three *tefachim* away from the existing, it is effective.

- It must be more than ten *amos* long and at least ten *tefachim* tall. (M.B. 48)
- Shulchan Aruch refers to where an entrance to the enclosure was made before the new partition was constructed. (M.B. 51)
- If the new partition is within three *tefachim* of the original partition it is ineffective since it is considered an extension of the original wall rather than an independent entity. If the new partition minimizes the space of the area it is effective even if it is within three *tefachim* of the original partition. (M.B. 52)

Halacha Highlight

Adding a new wall

Shulchan Aruch Siman 358 Seif 6
בנה מחיצה בארך עשר
One who built a wall that is ten *amos*

The Gemara Eiruvin (25a) discusses the issue of a *karpeif* that is more than two *bais seah* that was not enclosed for residential purposes which means that one may not transport items within this enclosure more than four *amos*. One of the methods of repairing such a situation is the construction of a new wall within the existing wall. The halacha is that as long as the new wall is at least three *tefachim* from the previous wall it is now considered as though the area was enclosed for residential purposes and it is permitted to transport objects throughout the enclosed area.

Rishonim debate the size of this added wall. According to Rosh (פ"ב סי' ד') it is sufficient for this new wall to be slightly more than ten *amos* long. His reasoning is that upon the construction of this new wall we look at it as though the existing wall was breached and then repaired. For a wall to be considered breached it must have a gap of more than ten *amos* since anything less than that is considered an opening. Consequently, a new wall more than ten *amos* is sufficient since that breaches the old wall and the area is now considered enclosed for residential purposes. Ritva (על הגמ' שם) disagrees and maintains that the new wall must run the entire length of one of the old walls so that one of the sides of this area is now completely enclosed by this new wall. Shulchan Aruch followed Rosh's lenient opinion and wrote that it is sufficient for the new wall to be slightly more than ten *amos*. Biur Halacha (סוד"ה בארך עשר) writes that although the simple reading of the Gemara seems to be in accordance with Ritva's position, nevertheless, one who chooses to follow Shulchan Aruch's ruling will not lose since there are other commentators who agree with Rosh's position about this matter.