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Digest
Mishna Berura
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סימן שנ"ח סעיף י"א

Halacha Highlight

An enclosed swimming pool

Shulchan Aruch Siman 358 Seif 11

ונכנסו בו מים

And water entered it

Shulchan Aruch follows the opinion that maintains that an enclosed area that fills with water retains its status as an area enclosed for residential purposes if the water is usable. Mishnah Berurah (מ"ב ס"ק פ"ה ושעה"צ ס"ק פ' ופ"א) explains that the intent is that it is potable. He then references other authorities who maintain that even if the water could be used for laundering purposes the area retains its status as enclosed for residential purposes.

Teshuvas Minchas Yitzchok (ח"ו סי' ל"ב) was asked about a swimming pool that was larger than two *bais se'ah* and was surrounded by a fence from which sheets were hung for *tznius* purposes. The question was whether it is permitted to carry more than four *amos* within the fence that surrounds the pool. He answered that if the pool area is not adjacent to a house it has the status of an area that was not enclosed for residential purposes. Its use for swimming is not considered a residential use. Accordingly, it would not be permitted to carry more than four *amos* in this area. If, however, the pool area is adjacent to a house, the only question that would arise is whether the presence of the pool detracts from its status as an area that was enclosed for residential use. His answer to that question is that the pool does not detract from its status as an area enclosed for residential purposes. Since Mishnah Berurah rules in accordance with those who maintain that an area that contains water that can be used for laundering purposes retains the status of an area enclosed for residential purposes, certainly water that could be used for bathing will not affect a change of status to a non-residential area. His reasoning is based on the Gemara in Nedarim (79a) that teaches that refraining from bathing generates greater distress than not laundering one's clothing. Accordingly, it would be permitted to carry throughout the pool area.

Overview

Siman 358 Seif 11:

A *karpeif* larger than two *bais seah* that was enclosed for residential purposes that now has water in it, if it is fit for drinking, it does not nullify its status as residential, even if the area covered by water is larger than two *bais seah* and even if the water is deep. If it is not fit for drinking, it is the same as herbage, provided that it is deeper than ten *tefachim*.

- Meaning, a person can drink it and some authorities are lenient even if the water can be used for laundry and the like. (M.B. 85)
- Tur maintains that this is true even if the entire field filled with water. (M.B. 87)
- According to the other opinion that water is not usable for any purpose since it is turbid. (M.B. 88)
- The wording implies that it is exactly similar to herbage, consequently, if it spread to the majority of the area, the entire area is prohibited even if it is not two *bais seah*. If it covers a minority of the area but is more than two *bais seah*, the entire area is prohibited. If the water has walls that constitute a *tel hamislaket* only the area of the water is prohibited. (M.B. 89)