The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Thurs, Nov 28 2024 ■ כ"ז חשון תשפ"ה
סימן שס"ג סעיף י"ג-ט"ז

Overview

Siman 363 Seif 13:

If a *lechi* extends with the wall of the *mavoi*, i.e., the edge of the *lechi* was placed adjacent to the width of the wall so that from the inside it appears flush but from the outside it is visible, since the *lechi* does not completely cover the width of the wall, it is valid provided that it is less than four *amos* long and one may use the *mavoi* until the inner edge of the *lechi*. If the *lechi* is four *amos* it is considered part of the wall of the *mavoi* and it is prohibited to use the *mavoi* since it is lacking a *lechi*.

- Although generally it is permitted to use the area between the *lechaya'yim*, in this case it is prohibited since the other side is shorter. (M.B. 46)
- Once it is four *amos* which is the minimum size of a *mavoi* it is no longer considered a *lechi* and is categorized as part of the *mavoi*. If one placed a number of poles along the wall of the *mavoi*, all within three *tefachim* of one another, for a distance of four *amos* the *mavoi* is not permitted since those poles added to the thickness of the wall but do not serve as a *lechi*. If, however, the first *lechi* extends into the space of the opening of the *mavoi* so that it is visible to those standing outside, it is considered a *lechi*. (M.B. 47)

Siman 363 Seif 14:

Another method to permit a *mavoi* that is breached on the fourth side is to place a beam on top of the *mavoi*. It must be placed on the walls of the *mavoi* but if one inserted pegs on the outside of the *mavoi*, even if they are adjacent to the *mavoi* and placed the beam on them, it is invalid.

- The reminder is an assurance that one will not confuse the *mavoi* with a public domain nor will one inadvertently transport something from the *mavoi* to the area outside of the *mavoi*. (M.B. 49)
- Meaning, it must be placed on the edge of the *mavoi*. (M.B. 50)
- In other words, one inserted pegs into the outside of the walls, above the public domain. The reason such a placement is invalid is that as a reminder it must be within the *mavoi*, in contrast to a *lechi* which functions as a wall and can be placed outside of the *mavoi*. (M.B. 51)
- If one placed two pegs in the ground on the outside of the *mavoi* and then placed a beam on them, the *mavoi* is permitted since the pegs act as *lechaya'yim*. (M.B. 52)

Siman 363 Seif 15:

The beam must be placed with the intent to permit the *mavoi* but if it was not done for this purpose, even if placed there before Shabbos, it is invalid.

- Since the beam serves as a reminder it must be placed there intentionally. (M.B. 54)

Siman 363 Seif 16:

The beam has a minimum size, therefore, if it was made from an *asheirah* tree it is invalid since it must be burnt and thus does not contain the minimum size.

- Either it was worshipped by a Jew or if worshipped by a gentile but cut off the tree by a Jew since in both cases it cannot be nullified from being an *asheirah*. If the Jew did not intend to become the owner, it belongs to the gentile and could be nullified and thus may be used as a beam on a *mavoi*. (M.B. 57)

Halacha Highlight

Enclosing a *mavoi*

Shulchan Aruch Siman 363 Seif 14
בקורה שיניחנה על ראש המבוי
With a beam placed on the edge of the *mavoi*

Shulchan Aruch (סע' י"ד) relates that there is another method to enclose the fourth side of a *mavoi* and that is by placing a beam (קורה) at the open end of the *mavoi*. He them emphasizes that it must be placed on the walls of the *mavoi*, meaning at the end of the *mavoi*. If instead one inserted two pegs into the outside walls of the *mavoi* so that the pegs rest above the public domain and one then placed the beam on those pegs it is invalid, even if the beam rests just outside of the *mavoi*. Mishnah Berurah (ס"ק נ"א) explains that the reason is that in contrast with a *lechi* which serves as a partition and thus may be placed outside of the existing walls, a beam serves as a reminder and thus is effective only within the airspace of the *mavoi*.

Mishnah Berurah (ס"ק נ"ב) rules that if one inserted two pegs into the ground just outside of the *mavoi*, adjacent to the wall of the *mavoi* and then placed a beam on top of the those pegs, it is permitted to transport objects within the *mavoi* since the pegs effectively serve the function as *lechaya'yim*. Sha'arHaTziyun (ס"ק ל"ז) expresses surprise at the commentators who explained that it is valid since the pegs serve as *lechaya'yim*, when in fact by placing a beam over those pegs one has created a *tzuras hapesach* which should certainly be effectiveto close the *mavoi*. Seemingly, Sha'ar HaTziyun refers to where the pegs are not directly aligned with the wall so that they are recognizable to those who stand outside of the *mavoi* because if that was not the case they would not be discernable as the *lechaya'yim* of a *tzuras hapesach*. Chazon Ish (סי' ע' ס"ק ט"ז-י"ז), however, maintains that the *lechaya'yim* must partially enclose the *mavoi* and if they do not do so it is ineffective even if they are recognizable to the people standing outside of the *mavoi*.