



Overview

Halacha Highlight

Siman 363 Seif 23:

If one beam is higher than the other, we look at the upper one as though it is lower and the lower one as though it is higher, provided that the upper one is not higher than twenty *amos* and the lower one is not within ten *tefachim*. There may not be three *tefachim* of space between them, whether horizontally or vertically when we adjust their height to be on a parallel plane horizontally but some authorities maintain that it is invalid.

- ❖ Even if the two narrow beams are not on the same horizontal plane and instead are different heights but within three *tefachim*, it is valid. (M.B. 73)
- ❖ Even after we look at the beams as though they are on the same horizontal plane, nevertheless, they may not be more than three *tefachim* apart. (M.B. 76)
- ❖ The reason to be more stringent here than in *hilchos sukkah* is that when the two beams are not on the same plane they cannot support a brick. Furthermore, it is not acceptable if they are more than a *tefach* apart. Elya Rabba writes that one should be stringent in accordance with this opinion. (M.B. 77)

Siman 363 Seif 24:

If one draped a mat over the beam that does not reach the ground, if it is within three *tefachim* of the ground it is invalid since the beam is covered and once concealed it is invalid and it also does not qualify as a partition since it is three *tefachim* above the ground. If one placed a wide beam and some of it extends within ten *tefachim* of the ground, it is valid.

- ❖ It was fastened to the wall so that the wind would not move it and it could be used as a partition. (M.B. 78)
- ❖ Since it is ten *tefachim* wide one may think that it is considered a partition rather than a beam, therefore, Shulchan Aruch teaches that despite its size it remains a beam. (M.B. 81)
- ❖ Authorities are troubled by this since it implies that if part of the wide beam falls within ten *tefachim* it remains valid but that is not true since the airspace of the *mavoi* must be at least ten *tefachim*. (M.B. 82)

Siman 363 Seif 25:

If one inserted two crooked pegs that are not the width of a *tefach* so that they can be considered part of the beam on the walls of the *mavoi* and they lean into the *mavoi* and one placed the beam on them, if they are not higher than three *tefachim* from the height of the wall and do not lean three *tefachim* it is valid since we look at the beam as though it is resting on the walls of the *mavoi*. If they are three *tefachim* high or three *tefachim* beyond the wall of the

Utilizing two *halachos l'Moshe m'Sinai*

Shulchan Aruch Siman 363 Seif 25
אם אינם גבוהים מכתלי המבוי שלשה

If they are not more than three *tefachim* higher than the *mavoi* walls

Shulchan Aruch (סעי' כ"ה) discusses one who inserted two pegs into the walls of a *mavoi*. These pegs are angled so that they extend into the *mavoi* and one placed a beam onto those pegs so that it should be permitted to transport items within the *mavoi*. These pegs are not a *tefach* wide so that they should be considered part of the beam. Shulchan Aruch rules that the placement of the beam is effective provided that the beam is not more than three *tefachim* higher than the wall and that horizontally the beam is not more than three *tefachim* from the walls of the *mavoi*. In other words, if the beam is not more than three *tefachim* higher than the walls of the *mavoi* we can look at the beam as though it is parallel to the top of the *mavoi* walls. We then measure from the imaginary place of the beam to assure that it is within three *tefachim* of the *mavoi* walls so that *lavud* allows us to see the beam as though it is connected to the walls.

Rav Akiva Eiger (מהדו"ק סי' י"ב) proves from this *halacha* that we do not combine two *halachos l'Moshe m'Sinai* when one of those *halachos* cannot be invoked until the first *halacha* is applied. Therefore, when the beam is three *tefachim* higher than the *mavoi* walls it is invalid since we cannot invoke *lavud* to attach the beams to the walls until we first utilize the *halacha* of *חבט* to lower the beam into place between the walls. When the beam is not more than three *tefachim* above the walls, all that must be invoked is *lavud* to attach the beams to the walls. Chazon Ish (אור"ח סי' ע"ז סק"ז) expresses surprise at Rav Akiva Eiger's inference since even when the beam is not more than three *tefachim* higher than the *mavoi* walls it is necessary to utilize the principle of *חבט* since in many instances there will be a distance of more than three *tefachim* from the edge of the beam to the walls due to the angle. Consequently, he draws the opposite conclusion and points to this *halacha* as proof that we do invoke two *halachos l'Moshe M'Sinai* even when one of those *halachos* cannot be invoked until the first *halacha* is applied.

mavoi it is invalid.

- ❖ There are two issues, the first is that the beam is not resting on the walls of the *mavoi* and secondly, the beam is narrower than the gap between the walls. (M.B. 84)