The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Mon, Dec 2 2024 ■ א' כסלו תשפ"ה
סימן שס"ג סעיף כ"ו

Overview

Siman 363 Seif 26 (b):

A *mavoi* is not permitted by virtue of a *lechi* or beam unless it contains two yards and each yard contains two houses (even if the houses open to one another) and some authorities disagree with this. **Furthermore, each entrance may not be less than four *tefachim* and there must be residents who eat in each house since one's residence is determined by the placement of his bread. Even if one house belongs to a father and the second house belongs to his son and even if the son receives food from his father but eats it in his own home, they are considered two separate residents. It is effective even if gentiles live on one side and Jews on the other. If one of these characteristics is missing, it will require a board that is four *tefachim*, two boards of minimal size or a *tzuras hapesach*.** Some maintain that nowadays all *mavo'os* require a *tzuras hapesach* since they are, in fact categorized as a yard. Common custom in these countries is to repair them with a string that runs the width of the *mavoi* and the string does not function as a beam and does not have to be a *tefach* thick. It is effective as a *tzuras hapesach* for which even a piece of reed is sufficient as mentioned at the end of *siman* 362. Consequently, one should make sure to place two side posts that are ten *tefachim* tall that are aligned directly beneath the string. This *tzuras hapesach* will be effective even for an open *mavoi*, a yard or any other area where a *tzuras hapesach* is effective (as explained above at the end of *siman* 362).

- When a *mavoi* does not have two yards, the residents are few and thus a *lechi* or beam are insufficient. (M.B. 102)
- Since they can make an *eruv* they are considered a single yard and the same is true when the houses are attached. Authorities write that we follow the lenient opinion. (M.B. 103)
- This is true even when it is only slightly larger [Length refers to the wall perpendicular to the entrance and the side that contains the entrance is its width]. If they are equal, it is categorized as a yard. (M.B. 106)
- It is treated like a yard. (M.B. 108)
- Houses and yards to do not open to our *mavo'os*, therefore, they are not permitted with a *lechi* or beam and consequently, the custom developed to always utilize a *tzuras hapesach*. Some authorities write that custom indicates that a *tzuras hapesach* should be utilized by all entrances and *l'chatchila* one should be stringent about that but in a pressing circumstance in which the string above the *lechaya'yim* tore one may be lenient if the entrance is not more than ten *amos*, even though there is more open space than closed space. Moreover, the requirement in our cities to require a *tzuras hapesach* applies to cities that are not surrounded by walls but for cities that are surrounded by walls all that is required is to separate between the area where the Jews dwell and the area where the gentiles dwell so that the gentiles do not prohibit the Jews from transporting items. When no rectification was made between Jews and gentiles the area is categorized as a yard and it is permitted to transport items that began Shabbos in the yard. (M.B. 111)
- If the roof interrupts between the string and the side posts beneath it, it is not a *tzuras hapesach*. It is necessary to open a section of the roof above the side posts so that they will be directly beneath the strings without any interruption. (M.B. 112)
- The walls of the *mavoi* do not replace the side posts. If there are protrusions from the wall that are within three *tefachim* of one another and one relied upon them before Shabbos to serve as side posts of a *tzuras hapesach* it is valid provided that they are exposed on top beneath the string. If the side posts are in a house or surrounded by walls on all four sides, it is ineffective and even if one of the side posts is surrounded, it is ineffective. (M.B. 113)

Halacha Highlight

Side posts surrounded by walls

Rema Siman 363 Seif 26 (b)
שני קנים גבוהים עשרה
Two side posts ten *tefachim* tall

Rema mentions that nowadays we rectify all *mavo'os* by constructing a *tzuras hapesach* rather than using a *lechi* or beam. The basis for this practice is that our *mavo'os* are in reality yards since they do not have yards and houses that open to them (מ"ב ס"ק קי"א). Furthermore, the custom is to extend a string over the width of the *mavoi* and that string functions as part of a *tzuras hapesach* rather than a beam and thus it is not necessary for the string to be a *tefach* thick. Consequently, one must assure that there are two side posts that are at least ten *tefachim* tall beneath the string. Mishnah Berurah (ס"ק קי"ג) writes that the *mavoi* walls may not be utilized as the side posts of the *tzuras hapesach* and separate side posts must be added. He then adds that if one were to place the side posts inside of a house or even if it is merely surrounded on all four sides with walls, it is ineffective. Moreover, even if just one of the side posts was in a house or surrounded by walls it is ineffective.

The source for the ruling that a side post that is surrounded by walls (מוקף מחיצות) is invalid is the Mikor Chaim and he suggests two reasons for this *halacha*. One explanation is that the side posts must be discernable and if surrounded by walls they are not discernable. Alternatively, an area surrounded by walls is treated as though it is filled and thus the poles cannot function as side posts. It is important to note that Chasam Sofer disagrees with this ruling and does not disqualify a side post that is surrounded by walls. Mishnah Berurah implies that it is only when it is surrounded on all four sides is it invalid but if it is surrounded by only one wall it is valid. However, there are authorities who maintain that even one wall that stands between the two side posts invalidates the *tzuras hapesach*. One reason is that a *tzuras hapesach* must be capable of holding a door and if there is a wall in the middle of the *tzuras hapesach* it will not be capable of holding a door.