The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שס"ה סעיף ד'

Overview

Siman 365 Seif 4:

It is permitted to use the area beneath the beam or opposite the *lechi* when the *mavoi* opens to the public domain but if it is opens to a *karmelis* it is prohibited to use the area beneath the beam or opposite the *lechi* since that area combines with the adjacent *karmelis* since one kind finds itself and awakens it.

- There is a disagreement whether this leniency applies when the *lechi* was four *tefachim* wide and the area could be considered a *karmelis*. (M.B. 25)
- Even if the area between the *lechaya'yim* did not have the minimum size of a *karmelis*, i.e., it was not four *tefachim* by four *tefachim*, nevertheless, it combines with the area outside of it and is then considered a *karmelis*. (M.B. 26)
- Some authorities maintain that it is permitted to use the area beneath the beam, especially if the beam is four *tefachim* thick and strong enough to hold a brick because of פי תקרה יורד וסותם. (M.B. 27)

Siman 365 Seif 5:

Although it is permitted to use the area beneath the beam, a person should not sit at the entrance of the *mavoi* with an object in hand out of concern that it will roll from his hand to the public domain and he will retrieve it since there is no reminder between him and the public domain. It is permitted, however, to sit at the entrance of a yard regardless of whether it opens to the public domain or a *karmelis* since it has a reminder.

- It is permitted to use the area beneath the beam or next to the *lechi* only when an object happens to be there. (M.B. 28)
- One should also not sit next to a *lechi* but next to a *tzuras hapesach* may be permitted. (M.B. 29)

Siman 365 Seif 6:

We do not protest against women who sit at the entrance of a *mavoi* with jars in their hands since the prohibition is only Rabbinic and it is better for them to violate it inadvertently than intentionally.

- The same is true concerning Biblical matters if we know they will not listen unless the prohibition is explicit. (M.B. 30)

Siman 365 Seif 7:

If the beam or *lechi* of a *mavoi* was removed on Shabbos, even though the area was permitted for part of Shabbos, it is prohibited once they are removed regardless of whether it opens to the public domain or whether it opens to a *karmelis*. Another opinion maintains that this is true for a city that is not surrounded by a wall but if the city is surrounded by a wall it is permitted. One may rely on this opinion and permit it. The above is true when the beam or *lechi* could have remained in place for Shabbos but if there was reason before Shabbos to believe that it may be removed, it is prohibited once it is removed. If it is not known whether it was removed before Shabbos one may be lenient.

- The same is true when a *tzuras hapesach* was removed. (M.B. 31)
- It is prohibited to transport objects more than four *amos* or from the house to the *mavoi*. (M.B. 32)
- The wall renders the city a private domain and the rectification of the *mavoi* was to exclude the gentiles and thus if the rectification breaks it is permitted since in such a circumstance we can apply the principle that once it was permitted for part of Shabbos, it is permitted for the duration of Shabbos. (M.B. 33)
- For example, in places where gentiles tear down the rectification on the night of Shabbos and it is almost certain that they will do so. (M.B. 34)
- Rema refers to where it is not certain that it will be broken on Shabbos. (M.B. 35)
- We follow the presumption that it was valid and just broke. (M.B. 36)

Halacha Highlight

Using the area opposite the *lechi*

Shulchan Aruch Siman 365 Seif 4

וכנגד הלחי

And opposite the *lechi*

Shulchan Aruch (סעי' ד') rules that it is permitted to transport objects more than four *amos* beneath the beam or opposite the *lechi* that were affixed to permit transporting items within the *mavoi*. However, this is allowed only when the *mavoi* opens to the public domain, but when it opens to a *karmelis* it is prohibited since the area beneath the beam or opposite the *lechi* combines with the *karmelis* that is adjacent to it since it is also categorized as a *karmelis*. Mishnah Berurah (ס"ק כ"ו) explains that this principle is true even when the area opposite the *lechi* was not four *tefachim* by four *tefachim* so that independently it is not a *karmelis*. Nevertheless, since it has the potential to be a *karmelis* when it is located next to a *karmelis* that potential is activated and is categorized as a *karmelis*.

Mishnah Berurah (ס"ק כ"ה) records a dispute whether Shulchan Aruch's allowance to use the area opposite the *lechi* applies only when the area is smaller than four *tefachim* by four *tefachim* so that it subordinate to the area inside of the *mavoi*, but if that area contains four *tefachim* by four *tefachim* it is a *karmelis* and not is not subordinate to the area inside. Other authorities disagree and maintain that there is no difference whether the area opposite the *lechi* is four *tefachim* by four *tefachim* and in all circumstances that area opposite the *lechi* is subordinate to the area in the *mavoi*. Chazon Ish (או"ח סי' ס"ו סק"ד) explains the latter opinion as follows. The edge of the *lechi* is only effective to enclose the area inside the *mavoi* but not the area opposite the *lechi* since that area is completely open. Therefore when the *mavoi* is adjacent to a *karmelis* the area opposite the *lechi* becomes subordinate to the adjacent *karmelis* since there is nothing that separates between the two similar domains. However, if the *mavoi* opens to a public domain so that the area opposite the *lechi* does not become subordinate to the dissimilar public domain, it instead becomes subordinate to the *mavoi* and the outer edge of the *lechi* encloses that area.