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

Overview

Siman 366 Seif 10:

When conveying ownership to others one should not use his children who are minors, even if he does not financially support them, nor should he use his gentile slave or maidservant. One may convey ownership via his adult children, even if he financially supports them as well as via his Jewish slave or maidservant. It may also be done by one's wife even though he provides her with food and even though she does not have a house in the yard. Some maintain that he cannot convey ownership via children that he supports even if they are adults or via his daughter, even if he does not financially support her if she is not yet a *bogeres*. It may also not be done via one's wife if he provides her with food or if he told her to use her wages to support herself even if she owns a house in the yard. However, he may convey ownership via a child that he does not financially support even if he is a minor or a daughter who is a *bogeres* that he does not financially support. It may also be done via one's wife if he does not provide her with food even though she does not own a home in the yard. *L'chatchila*, when possible, one should accommodate both opinions. *B'dieved*, we rely on the lenient opinion in matters that relate to *eruv*. Similarly, if an adult son has a wife he may convey ownership to others even though he is financially supported by his father, even *l'chatchila*. It is not necessary to inform others that one conveyed ownership to them and if they are informed on Shabbos it is permitted for them to transport objects.

- Even though their father takes lost objects that they find, since they are adults they have the capacity to acquire on behalf of others, especially when their father wants that to happen. (M.B. 57)
- Since *eruv* is Rabbinic Chazal were are lenient regarding gentile slaves. (M.B. 58)
- This opinion equates the *halacha* of *eruv* with the *halacha* of lost objects and whenever someone does not keep lost objects he cannot acquire the *eruv* on behalf of others. (M.B. 61)
- Even though she is a *bogeres* since she is supported by her father she cannot acquire for others. (M.B. 62)
- Shulchan Aruch refers to where her wages cover her food expenses because if they do not her husband does not take her lost objects. (M.B. 65)
- One may have thought that it should be effective since she owns a house in the yard. (M.B. 66)
- This opinion maintains that this is effective only when she is not supported by her father and the same is true for a woman who is not supported by her husband. (M.B. 68)

Halacha Highlight

Following the lenient opinion in *eruvin*

Rema Siman 366 Seif 10
סומכין על דברי המקל בערוב

We rely on the lenient opinion in *eruvin*

Shulchan Aruch presents different opinions regarding who may acquire the *eruv* on behalf of others. The essential issue is whether someone who does not acquire lost objects for himself is capable of acquiring the *eruv* for the benefit of others. According to the first opinion, adults are capable of acquiring the *eruv* for others even though they are financially supported by others. According to the second opinion we equate the *halacha* of acquiring an *eruv* for others with the *halacha* of acquiring for one's self a lost object. Therefore, since those who are financially supported by others do not keep lost objects for themselves, they also do not have the capacity to acquire the *eruv* for others. Afterward, Shulchan Aruch presents the differing opinions and states that one should make an effort to accommodate both opinions and convey ownership via someone who, according to all opinions, may convey ownership to others, Rema rules that *b'dieved* one may rely on the lenient opinion since *halacha* follows the lenient opinion when it comes to matters involving an *eruv*.

Although the Rema did not qualify his statement that we follow the lenient opinion concerning *eruvin,* there are limitations to this principle. Rosh (עירובין פ"ב סי' ד') in the name of Maharam writes that this principle is limited to issues debated by Tannaim but does not even apply to issues debated by Amoraim and certainly not issues debated by later authorities. Rabbeinu Chananel, on the other hand, extends this principle even to disagreements between Amoraim. Rosh also cited Maharam as contending that it is only regarding matters that pertain to the *eruv* that this principle applies but does not extend to disagreements that relate to the proper construction of partitions (מחיצות). Rosh himself, however, does extend this principle to include issues related to constructing partitions. Chazon Ish (או"ח סי' קי"ב סק"י) writes that when there is a disagreement in the Gemara we follow the lenient opinion even if it is the minority opinion (See Gra 398:5) but when it comes to a disagreement amongst the *Poski*m we follow the majority opinion even if it is the stringent one. Birkei Yosef (סי' שנ"ח ד"ה עוד ק"ק), however, disagrees.