The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שע"ב סעיף י"ג-ט"ז

Overview

Siman 372 Seif 13:

If one placed two ladders near one another but they do not have a combined width of four *tefachim* so one distanced them apart so that there will be a width of four *tefachim* and filled the empty space with straw, it is ineffective as far as permitting use of the partition or allowing for a joint *eruv* since people climb the middle of a ladder and one cannot climb on straw. If one placed the ladder in the middle and added straw to the outside it permits the use of the partition and allows making a joint *eruv*.

- One can grasp the straw which is on the side. (M.B. 105)
- Whenever making a joint *eruv* is discussed it refers to where a similar repair was made on the second side of the partition. (M.B. 106)

Siman 372 Seif 14:

If the ladder is not four *tefachim* wide and one carved out space in the wall next to the ladder to complete its width to four *tefachim*, it is sufficient to make this adjustment to the height of ten *tefachim*. If one is not using a ladder and is carving out space in the wall that resembles rungs of a ladder, one must carve out space the entire height of the partition and this is effective to permit use of the partition as well as allowing for a joint *eruv*.

- The ladder must reach the full height of the partition or at least within three *tefachim* of its height. (M.B. 108)
- This is the minimum height of an entrance even though the partition is taller. (M.B. 109)
- The carved slots must be four *tefachim* wide and run the full height of the partition since it is difficult to ascend using such spaces. (M.B. 110)
- If there are less than three *tefachim* from the top carved out slot to the top of the wall it seems it is sufficient. (M.B. 111)

Siman 372 Seif 15:

If a tree was adjacent to the partition and one uses it as a ladder for the partition, if they want they may make a joint *eruv*. If the tree is an *asheirah* tree they may not make a joint *eruv* since it is Biblically prohibited to climb the tree being that it is prohibited for benefit. Rosh writes the opposite and a regular tree is ineffective but an *asheirah* is effective, provided that it is dry.

- It is only Rabbinically prohibited to climb a tree on Shabbos and Rabbinic injunctions are not in force during *bein hashemashos* when the *eruv* takes effect. (M.B. 113)
- There is no Shabbos restriction and although there is another restriction against climbing the tree, i.e. it was as an idol, it is nevertheless an entrance, albeit with a "lion" preventing access to the other side. (M.B. 115)
- It does not have fruit, leaves or branches so that we are not concerned that he will detach something on Shabbos. Elya Rabba leans towards the first opinion. (M.B. 116)

Siman 372 Seif 16:

If there is a ditch between two yards that is ten *tefachim* deep and four *tefachim* wide, they may not make a joint *eruv*, even if the ditch was filled with straw or stubble if it is not nullified to the ditch. If the ditch is filled with dirt or pebbles, even without specific intent to nullify it, they must make a joint *eruv* (See above *siman* 358:2). Some maintain that if it was filled with produce it is assumed that it was nullified since people uses ditches to store produce.

- The ditch runs the full length of the boundary between the two yards but if there are four *tefachim* of space without these dimensions it would be considered an entrance. (M.B. 118)
- If the straw and stubble are rotted so that they are unfit for animal consumption, they have the same status as dirt and pebbles. (M.B. 120)
- There is a disagreement whether he must verbalize his intent or whether having a definitive thought is sufficient. (M.B. 121)
- If one made it less than ten *tefachim* deep it is also effective. (M.B. 122)
- Rema there cites two opinions whether nullifying it for a single Shabbos is effective and since the issue is Rabbinic one may follow the lenient opinion and they have the option to make a joint *eruv*. (M.B. 124)
- Magen Avrohom questions Rema's ruling and Gra agrees with him that only produce that is *tevel* which cannot be moved on Shabbos is nullified but other produce which may be moved is assumed to not be nullified. (M.B. 125)

Halacha Highlight

Using a tree as a ladder

Shulchan Aruch Siman 372 Seif 15

היה אילן בצד הכתל

If a tree was next to a partition

Shulchan Aruch (סע' ט"ו) rules that when there is a tree next to a partition that divides between two yards, the tree could be used as a ladder to reach the top of the wall and if they want they may make a joint *eruv*. Mishnah Berurah (ס"ק ק"ג) questions this ruling since the leniency relies on the fact that one could use the tree to reach the top of the partition when, in fact, it is prohibited to climb a tree on Shabbos. Accordingly, the tree should not be an effective ladder for the partition and the residents of the two yards should not be able to make a joint *eruv*. He answers that the prohibition against climbing a tree on Shabbos is only Rabbinic and during the period of *bein hashemashos* when the *eruv* takes effect the Rabbinic injunction is not in force.

Magen Avrohom (ס"ק כ"ד) is also troubled by the same issue and adds that the applicable principle involved is שבת שהותרה הותרה—once it was permitted at the outset of Shabbos it remains permitted for the remainder of Shabbos. Rav Akiva Eiger (שו"ת מהדו"ק סי' י"ד) challenges the application of this principle in this circumstance. He contends that the principle does not apply when the partition will not remain fit for the duration of Shabbos as indicated by Rema (לעיל סי' שס"ה סע' ז'). Consequently, since it will be prohibited to climb the tree on Shabbos it should be considered as though the partition will not remain fit for the duration of Shabbos and it should be prohibited. He answered that since the tree will remain in place for the duration of Shabbos and it is the prohibition against climbing trees that serves as an impediment against climbing the tree, it retains its status as an entrance to the partition despite the prohibition which restricts using the tree on Shabbos. Chazon Ish (או"ח סי' צ"ו ס"ק ל"א) explains this *halacha* in a similar fashion.