The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן ת"ט סעיף ח'-י'

Overview

Siman 409 Seif 8:

If one wishes he may send an agent with the *eruv* who will declare, "With this *eruv Ploni* will be permitted to travel." However, the agent may not be deaf-mute, insane, a child or someone who does not agree to an *eruv*. If one sent the *eruv* with someone who is deaf-mute, insane, a child a gentile or someone who does not agree to an *eruv*, it is not valid. If one instructed another person to take it from them and shipped it with them, or even if it was shipped on an elephant or monkey and one saw from a distance that it reached its destination and was delivered to the waiting agent, the *eruv* is valid even though the owner did not see the agent place it down since we presume the agent fulfilled his agency. Similarly, when many people make an *eruv techumin* and they want to appoint someone to place down their *eruv* they may send it with him.

- They may not make the *eruv* even if the owner stands at a distance and watches them place down the food. (M.B. 41)
- The concern is that they will not place down the *eruv* and even if one watches them place down the food, perhaps he did not place it down to serve as an *eruv*. (M.B. 42)
- Even someone mute may not serve as an agent for making an *eruv* since the declaration is essential. (M.B. 43)
- He therefore remains in the *techum* of his house. (M.B. 44)
- The presumption is in place only when the agent verbalized that he would take the food and place it down as an *eruv* but otherwise the presumption is not in force. (M.B. 49)
- Some maintain that even regarding Biblical prohibitions where not carrying out the agency will be a cause for the principal to stumble since he will assume the agency was fulfilled we rely on the presumption. When we know the agency was fulfilled but we are uncertain whether the agent deviated from his exact instructions, we assume that he did not. (M.B. 50)

Siman 409 Seif 9:

If someone or a group instructs someone to make an *eruv* for them and he chose the direction of the placement of the *eruv* it is valid and they may use it since they did not specify a direction.

- It is assumed that they will be happy with the direction that he chooses. It would seem that if the agent knows which direction is preferred by the principal and he made the *eruv* in a different direction it is not valid even though now he is happy with the choice. (M.B. 52)

Siman 409 Seif 10:

If one asks a friend to make an *eruv* with dates and he makes it with dry figs or vice versa, if he told him to place it in a closet and he placed it in a dovecote or vice versa, a house and it was placed in the upper story or vice versa, the *eruv* is not valid. However, if he told to make an *eruv* without more detailed instructions and the agent made the *eruv* with dried figs, dates placed it in the house or on the upper story, the *eruv* is valid.

Halacha Highlight

Sending a child to place the *eruv techumin*

Shulchan Aruch Siman 409 Seif 8
ויאמר בזה הערוב יהא פלוני מתר לילך
With this *eruv Ploni* should be permitted to travel

Shulchan Aruch (סע' ח') teaches that it is not necessary for one to personally make an *eruv*, it is acceptable to send an agent to place the food for him. When the agent places the food it is necessary for the agent to declare, "With this *eruv Ploni* is permitted to travel." Mishnah Berurah (ס"ק מ"ג) explains that the declaration is essential and for that reason one who is mute may not serve as an agent for making an *eruv* since he cannot make the declaration. This echoes the Mishnah Berurah's position above (ס"ק ל"ז) where he wrote that one who places the food without verbalizing his intent has not made a valid *eruv* even though mentally that was his intent. Biur Halacha (ד"ה על ידי שליח) writes that if the owner declared, "With the bread that my agent will place down for me I will be permitted to walk from that location 2000 *amos* in each direction," the *eruv* is valid.

Sefer Nesivos Shabbos (פמ"ז ס"ק נ"ח) writes that even if one sends a child as his agent to make the *eruv* and the principal makes the necessary declaration the *eruv* is invalid since Mishnah Berurah, following Rashi's position, maintains that the placement of the food must be done by someone with *da'as* which a child lacks. He then notes that it seems from the other Rishonim that if the principal declares after the child placed down the food that it should be effective as an *eruv* it would be valid. The rationale is that making the declaration once the food is in place is comparable to placing the food there for the sake of being an *eruv*. This is certainly the case when the principal knows where the food was placed. The shortcoming of an adult making the declaration when a child places down the food is limited to the adult's declaration before the placement of the child.